
A BILL FOR AN ACT

RELATING TO AN OFFICE OF ADMINISTRATIVE HEARINGS.

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

1 PART I

2 SECTION 1. The legislature finds that in most federal
3 agencies and in many state, territorial, and local
4 jurisdictions, administrative adjudications take place within
5 agencies that combine regulatory, enforcement, prosecutorial,
6 and adjudicatory authority in a single agency. However, the
7 legislature finds that this combination of functions in some
8 cases may compromise the integrity of administrative
9 adjudications and is often perceived as unfair by the litigants
10 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 judge presides over the administrative litigation
16 and is completely independent of the agency prosecutorial
17 functions. Roughly twenty-nine state and local jurisdictions,



1 including New York City, Chicago, Cook County, Illinois, and the
2 District of Columbia, have addressed this conflict by creating a
3 single independent central hearing agency.

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

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



1 states authorized some or all final decision-making authority in
2 the central panel administrative law judges.

3 The legislature further finds that in an effort to improve
4 the efficiency of contested case hearings, the legislature
5 passed Act 110, Session Laws of Hawaii 2019, which required the
6 legislative reference bureau to conduct a study on existing
7 administrative hearings processes and the potential for a
8 centralized office of administrative hearings. The report was
9 published in January 2020 and compiled data on various contested
10 case hearings in the State and data from other jurisdictions
11 across the nation.

12 The legislature believes a centralized office of
13 administrative hearings can benefit the State as it has the
14 potential to reduce costs and create a more efficient
15 adjudication process for people of the State. However, the
16 legislature recognizes the need to balance a central office with
17 the complexity of contested cases and the various subject matter
18 expertise that is required to fairly adjudicate these cases.
19 Therefore, the legislature finds that creating a pilot project
20 to establish a semi-centralized office of administration that is
21 responsible for just a few state departments to start will



1 better prepare for a potential transition to a completely
2 centralized office of administrative hearings if the pilot
3 program is extended or becomes permanent.

4 Accordingly, the purpose of this Act is to establish an
5 office of administrative hearings responsible for hearing
6 contested cases of the department of budget and finance,
7 department of land and natural resources, and department of
8 taxation.

9 PART II

10 SECTION 2. The Hawaii Revised Statutes is amended by
11 adding a new chapter to be appropriately designated and to read
12 as follows:

13 "CHAPTER
14 OFFICE OF ADMINISTRATIVE HEARINGS

15 § -1 **Scope of chapter.** (a) Except as provided in
16 subsection (b) and notwithstanding any other law to the
17 contrary, beginning on July 1, 2024, this chapter shall apply to
18 the following departments and attached agencies that adjudicate
19 contested cases:

- 20 (1) Department of budget and finance;
21 (2) Department of land and natural resources; and



1 (3) Department of taxation.

2 (b) This chapter shall not apply to:

3 (1) Agencies in the political subdivisions of the State;

4 (2) The legislature;

5 (3) The judiciary;

6 (4) The office of the governor; or

7 (5) The office of the lieutenant governor.

8 **§ -2 Office of administrative hearings established;**

9 **jurisdiction.** (a) There is established the office of
10 administrative hearings within the department of accounting and
11 general service for administrative purposes only. The office of
12 administrative hearings shall be an independent agency in the
13 executive branch of state government for the purpose of
14 separating the adjudicatory function from the investigatory,
15 prosecutory, and policymaking functions of agencies in the
16 executive branch.

17 (b) Except as otherwise provided in this chapter, the
18 office of administrative hearings shall have jurisdiction to
19 resolve all contested cases of the appropriate department and
20 its attached agencies, unless the head or governing body of the



1 agency from which the case arises hears the case without
2 delegation or assignment to a hearings officer.

3 (c) Upon referral by an agency, one or more hearings
4 officers shall administer the resolution of the matters
5 referred.

6 § -3 **Chief hearings officer; in general.** (a) The
7 office of administrative hearings shall be headed by a chief
8 hearings officer who shall be appointed by the governor without
9 regard to chapter 76, subject to the advice and consent of the
10 senate. The chief hearings officer shall be appointed for a
11 term of _____ years and shall serve until a successor is
12 appointed. Unless otherwise disqualified, the chief hearings
13 officer shall be eligible for reappointment, subject to the
14 advice and consent of the senate. The chief hearings officer
15 may be removed by the governor only for good cause after due
16 notice and an opportunity to be heard in a hearing conducted
17 pursuant to chapter 91.

18 (b) The chief hearings officer shall be an attorney
19 licensed to practice in the State for a minimum of five years.
20 The chief hearings officer shall devote full time to the duties



1 of the office of administrative hearings and shall not engage in
2 the private practice of law.

3 (c) The chief hearings officer shall be paid a salary not
4 to exceed the salary of circuit court judges established
5 pursuant to section 603-5.

6 (d) The chief hearings officer shall, prior to beginning a
7 term of office, take an oath of office before a notary public or
8 other officer empowered to administer oaths. The chief hearings
9 officer shall be subject to the code of conduct for hearings
10 officers adopted pursuant to section -4.

11 (e) The chief hearings officer may employ staff subject to
12 chapter 76.

13 **§ -4 Chief hearings officer; powers and duties. (a)**

14 The chief hearings officer shall:

- 15 (1) Supervise the office of administrative hearings;
- 16 (2) Appoint and remove hearings officers in accordance
17 with this chapter;
- 18 (3) Assign hearings officers in any case referred to the
19 office;
- 20 (4) Protect and ensure the decisional independence of each
21 hearings officer;



- 1 (5) Establish and implement standards and specialized
2 training programs and provide materials for hearings
3 officers;
- 4 (6) Provide and coordinate continuing education programs
5 and services for hearings officers, including
6 research, technical assistance, and technical and
7 professional publications;
- 8 (7) Compile and disseminate information and advise of
9 changes in the law relative to the duties of hearings
10 officers;
- 11 (8) Adopt a code of conduct for hearings officers;
- 12 (9) Monitor the quality of state administrative hearings
13 through the provision of training, observation,
14 feedback and, when necessary, discipline of hearings
15 officers who do not meet appropriate standards of
16 conduct and competence, subject to paragraph (4);
- 17 (10) Submit an annual report on the activities of the
18 office to the governor and legislature no later than
19 twenty days prior to each regular session; and
- 20 (11) Adopt rules pursuant to chapter 91 necessary to carry
21 out the purposes of this chapter.



- 1 (b) The chief hearings officer may:
- 2 (1) Serve as a hearings officer in a contested case;
- 3 (2) Establish qualifications for the selection of hearings
- 4 officers;
- 5 (3) Furnish hearings officers on a contractual basis to
- 6 governmental departments and agencies other than those
- 7 required to use their services under this chapter;
- 8 (4) Accept and expend funds, grants, bequests, and
- 9 services from any public or private source for
- 10 purposes related to the office;
- 11 (5) Enter into agreements and contracts with any public or
- 12 private agencies or educational institutions; and
- 13 (6) Create specialized subject matter divisions within the
- 14 office.

15 § -5 **Hearings officers; qualification; tenure; scope of**
16 **employment.** (a) Hearings officers shall be appointed by the
17 chief hearings officer pursuant to section - (4) (a) (2) and
18 shall be subject to chapter 76. The hearings officers of any
19 agency to which this chapter applies shall become employees of
20 the office of administrative hearings and shall be subject to
21 administrative supervision by the chief hearings officer.



1 (b) A hearings officer appointed pursuant to this section
2 shall be an attorney licensed to practice in the State for a
3 minimum of five years; provided that persons serving as hearings
4 officers as of July 1, 2024, shall be exempt from this
5 requirement. A hearings officer shall devote full time to the
6 duties of the office of administrative hearings and shall not
7 engage in the private practice of law, unless serving as a part-
8 time hearings officer.

9 (c) Hearings officers shall be paid a salary not to exceed
10 the salary of district court judges established pursuant to
11 section 604-2.5.

12 (d) Hearings officers shall, prior to beginning a term of
13 office, take an oath of office before a notary public or other
14 officer empowered to administer oaths. Hearings officer shall
15 be subject to the code of conduct for hearings officers adopted
16 pursuant to section -4 and shall not take actions
17 inconsistent with the duties and responsibilities of a hearings
18 officer.

19 (e) A hearings officer may be removed, suspended, demoted,
20 or subject to disciplinary or adverse actions including any
21 action that might later influence a reduction in force, only



1 after due notice and an opportunity to be heard in a hearing
2 conducted pursuant to chapter 91 and a finding of good cause by
3 the merit appeals board established under section 76-47.

4 (f) A hearings officer shall not be responsible for, or
5 subject to, the supervision, direction, or influence, whether
6 direct or indirect, of an officer, employee, or agent engaged in
7 the performance of investigatory, prosecutory, or policy making
8 functions for an agency.

9 **§ -6 Powers of hearings officers.** A hearings officer
10 shall have the power to:

- 11 (1) Issue subpoenas;
- 12 (2) Administer oaths;
- 13 (3) Control the course of the proceedings;
- 14 (4) Engage in, or encourage the use of, alternative
15 dispute resolution methodologies, as appropriate;
- 16 (5) Order a party, a party's attorney, or other authorized
17 representative, to pay reasonable expenses, including
18 attorney's fees, incurred by another party as a result
19 of bad faith actions or tactics that are frivolous or
20 solely intended to cause unnecessary delay; and



1 (6) Perform other necessary and appropriate acts in the
2 performance of the hearings officer's duties under
3 this chapter.

4 § -7 Cooperation of state government agencies; audits;
5 selection of hearings officers. (a) All agencies of state
6 government shall cooperate with the chief hearings officer in
7 the discharge of the duties of the office of administrative
8 hearings.

9 (b) The office of administrative hearings shall be subject
10 to audit by the state auditor pursuant to section 23-4.

11 (c) Except in arbitration or similar proceedings as
12 otherwise provided by law, in this chapter, or in rules adopted
13 under this chapter, an agency shall not select or reject a
14 particular hearings officer for a particular proceeding.

15 § -8 Designation of additional hearings officers. If
16 the office of administrative hearings is unable to assign a
17 hearings officer in response to an agency referral, the chief
18 hearings officer shall designate in writing an individual to
19 serve as a hearings officer in a particular proceeding before
20 the agency; provided that the individual shall meet the



1 qualifications for a hearings officer as established by the
2 office.

3 **§ -9 Decision-making authority; final; proposed.** (a)

4 The assigned hearings officer shall render the final decision
5 and order of the agency, which shall not be subject to agency
6 review, unless otherwise specified in the laws governing the
7 agency.

8 (b) Except as provided under subsection (a), the hearings
9 officer shall issue a proposed decision, unless the agency
10 authorizes the issuance of a final decision and order, which
11 shall be subject to judicial review as provided in chapter 91.

12 (c) If a matter is referred to the office of
13 administrative hearings by an agency, the referring agency shall
14 take no further adjudicatory action with respect to the
15 proceeding, except as a party litigant; provided that the office
16 has jurisdiction over the proceeding. Nothing in this
17 subsection shall be construed to prevent an appropriate
18 interlocutory review by the agency nor an appropriate
19 termination or modification of the proceeding by the agency.

20 **§ -10 Proposed decisions and orders.** In reviewing a
21 proposed decision or order received from the hearings officer,



1 the agency head or governing body of the agency shall not
2 modify, reverse, or remand the proposed decision of the hearings
3 officer except for specified reasons in accordance with law.
4 Judicial review of agency decisions shall be conducted in
5 accordance with section 91-14."

6 PART III

7 SECTION 3. Section 6E-10.5, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By amending subsections (a) and (b) to read:

10 "(a) If the board of land and natural resources determines
11 that any person has violated or is violating this chapter, or
12 any rule adopted pursuant to this chapter, the board shall serve
13 written notice by certified mail or personal service upon the
14 alleged violator or violators specifying the alleged violation
15 and may include with the notice:

16 (1) An order specifying a reasonable time during which
17 that person shall be required to take such measures as
18 may be necessary to correct the violation and to give
19 periodic progress reports;

20 (2) An order imposing penalties provided in section 6E-
21 11.6; and



1 (3) An order that the alleged violator or violators appear
2 before the [~~board~~] office of administrative hearings
3 established under chapter _____ for a hearing at a time
4 and place specified in the notice or to be set later
5 and answer the charges complained of.

6 (b) If the board determines that any person is continuing
7 to violate this chapter or any rule adopted pursuant to this
8 chapter after having been served notice of violation, the board
9 shall serve written notice by certified mail or personal service
10 upon the alleged violator or violators specifying the alleged
11 violation. With the notice, the board:

12 (1) Shall order the alleged violator or violators to
13 submit a written schedule within thirty days
14 specifying the measures to be taken and the time
15 within which the measures shall be taken to bring that
16 person into compliance with this chapter or any rule
17 adopted thereunder. The board shall accept or modify
18 the submitted schedule within sixty days of receipt of
19 the schedule. Any schedule not acted upon after sixty
20 days of receipt by the board shall be deemed accepted
21 by the board;



1 (2) Shall order the alleged violator or violators to cease
 2 and desist from the activities that violate this
 3 chapter or any rule adopted [~~thereunder,~~] under this
 4 chapter, if that person does not submit a written
 5 schedule to the board within thirty days. This order
 6 shall remain in effect until the board accepts the
 7 written schedule;

8 (3) May impose penalties as provided in section 6E-11.6;
 9 and

10 (4) May order the alleged violator or violators to appear
 11 before the [~~board~~] office of administrative hearings
 12 established under chapter _____ for a hearing to answer
 13 the charges issued, at a time and place specified in
 14 the notice or otherwise set by the board."

15 2. By amending subsections (d) and (e) to read:

16 "(d) Any order issued pursuant to this chapter shall
 17 become final, unless the person or persons named therein
 18 requests in writing, [~~not~~] no later than twenty days after
 19 notice of violation and order is served, a hearing before the
 20 [~~board.~~] office of administrative hearings established under
 21 chapter _____. Upon request for a hearing, the [~~board~~] office of



1 administrative hearings shall require that the alleged violator
2 or violators appear before the [~~board~~] office for a hearing to
3 answer the charges issued, at a time and place specified in the
4 notice or otherwise set by the [~~board.~~] office.

5 Any penalty imposed pursuant to this chapter shall become
6 due and payable twenty days after the notice of penalty is
7 served, unless the person or persons named therein requests in
8 writing a hearing before the [~~board.~~] office of administrative
9 hearings. Whenever a hearing is requested on any penalty
10 imposed pursuant to this chapter, the penalty shall become due
11 and payable only upon completion of all review proceedings and
12 the issuance of a final order confirming the penalty in whole or
13 in part.

14 (e) Any hearing conducted pursuant to this section shall
15 be conducted as a contested case under chapter 91. If, after a
16 hearing held pursuant to this section, the [~~board~~] office of
17 administrative hearings established under chapter finds that
18 a violation or violations has occurred, the [~~board~~] office
19 shall:

- 20 (1) Affirm or modify any penalties imposed;
21 (2) Modify or affirm the order previously issued; or



1 (3) Issue an appropriate order or orders for the
2 prevention, abatement, or control of the violation or
3 for the taking of [~~such~~] other corrective action as
4 may be appropriate.

5 Any order issued after a hearing may prescribe timetables for
6 necessary action in preventing, abating, or controlling the
7 violation. If, after a hearing on an order or penalty contained
8 in a notice, the [~~board~~] office of administrative hearings finds
9 that no violation has occurred or is occurring, the [~~board~~]
10 office shall rescind the order or penalty."

11 3. By amending subsection (g) to read:

12 "(g) In connection with any hearing held pursuant to this
13 section, the [~~board~~] office of administrative hearings
14 established under chapter _____ may subpoena the attendance of
15 witnesses and the production of evidence on behalf of all
16 parties."

17 SECTION 4. Section 88-82, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§88-82 Petition for contested case hearing regarding**
20 **disability retirement or accidental death benefits; attorney's**
21 **fees and costs.** (a) A member or applicant who is not satisfied



1 with the preliminary decision of the board to grant or deny an
2 application for disability retirement benefits or accidental
3 death benefits based on the certifications and findings of the
4 medical board may file a petition for contested case hearing
5 with the [~~board~~] office of administrative hearings established
6 under chapter _____ within sixty days after receiving written
7 notification of the preliminary decision of the board.

8 (b) If the member or applicant is the prevailing party in
9 the contested case, and disability retirement or accidental
10 death benefits are awarded to the member or applicant by the
11 [~~board~~] office of administrative hearings or court of the
12 appropriate jurisdiction under section 88-75, 88-79, 88-85, 88-
13 284, 88-285, 88-286(c), 88-334, 88-336, or 88-339, the member or
14 applicant shall be paid reasonable attorney's fees together with
15 any costs payable by the system. The attorney's fees and costs
16 shall be subject to the approval of the [~~board~~] office of
17 administrative hearings established under chapter _____ or
18 approval by a court of appropriate jurisdiction after evidence
19 has been provided by the member or applicant regarding the
20 reasonableness of the claimed attorney's fees and costs."



1 SECTION 5. Section 174C-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§174C-5 General powers and duties.** The general
4 administration of the state water code shall rest with the
5 commission on water resource management. In addition to its
6 other powers and duties, the commission:

7 (1) Shall carry out topographic surveys, research, and
8 investigations into all aspects of water use and water
9 quality;

10 (2) Shall designate water management areas for regulation
11 under this chapter where the commission, after the
12 research and investigations mentioned in paragraph
13 (1), shall consult with the appropriate county council
14 and county water agency, and after public hearing and
15 published notice, finds that the water resources of
16 the areas are being threatened by existing or proposed
17 withdrawals of water;

18 (3) Shall establish an instream use protection program
19 designed to protect, enhance, and reestablish, where
20 practicable, beneficial instream uses of water in the
21 State;



- 1 (4) May contract and cooperate with the various agencies
2 of the federal government and with state and local
3 administrative and governmental agencies or private
4 persons;
- 5 (5) May enter, after obtaining the consent of the property
6 owner, at all reasonable times upon any property other
7 than dwelling places for the purposes of conducting
8 investigations and studies or enforcing any of the
9 provisions of this code, being liable, however, for
10 actual damage done. If consent cannot be obtained,
11 reasonable notice shall be given prior to entry;
- 12 (6) Shall cooperate with federal agencies, other state
13 agencies, county or other local governmental
14 organizations, and all other public and private
15 agencies created for the purpose of utilizing and
16 conserving the waters of the State, and assist these
17 organizations and agencies in coordinating the use of
18 their facilities and participate in the exchange of
19 ideas, knowledge, and data with these organizations
20 and agencies. For this purpose, the commission shall
21 maintain an advisory staff of experts;



- 1 (7) Shall prepare, publish, and issue printed pamphlets
2 and bulletins as the commission deems necessary for
3 the dissemination of information to the public
4 concerning its activities;
- 5 (8) May appoint and remove agents, including [~~hearings~~
6 ~~officers and~~] consultants, necessary to carry out the
7 purposes of this chapter, who may be engaged by the
8 commission without regard to the requirements of
9 chapter 76 and section 78-1;
- 10 (9) May hire employees in accordance with chapter 76;
- 11 (10) May acquire, lease, and dispose of such real and
12 personal property as may be necessary in the
13 performance of its functions, including the
14 acquisition of real property for the purpose of
15 conserving and protecting water and water related
16 resources as provided in section 174C-14;
- 17 (11) Shall identify, by continuing study, those areas of
18 the State where salt water intrusion is a threat to
19 fresh water resources and report its findings to the
20 appropriate county mayor and council and the public;



1 (12) Shall provide coordination, cooperation, or approval
2 necessary to the effectuation of any plan or project
3 of the federal government in connection with or
4 concerning the waters of the State. The commission
5 shall approve or disapprove any federal plans or
6 projects on behalf of the State. No other agency or
7 department of the State shall assume the duties
8 delegated to the commission under this paragraph;
9 except that the department of health shall continue to
10 exercise the powers vested in it with respect to water
11 quality, and except that the department of business,
12 economic development, and tourism shall continue to
13 carry out its duties and responsibilities under
14 chapter 205A;

15 (13) Shall plan and coordinate programs for the
16 development, conservation, protection, control, and
17 regulation of water resources, based upon the best
18 available information, and in cooperation with federal
19 agencies, other state agencies, county or other local
20 governmental organizations, and other public and



- 1 private agencies created for the utilization and
2 conservation of water;
- 3 (14) Shall catalog and maintain an inventory of all water
4 uses and water resources; and
- 5 (15) Shall determine appurtenant water rights, including
6 quantification of the amount of water entitled to by
7 that right, which determination shall be valid for
8 purposes of this chapter."

9 SECTION 6. Section 174C-11, Hawaii Revised Statutes, is
10 amended by amending subsections (a) and (b) to read as follows:

11 "(a) [~~The chairperson may appoint hearings officers, not~~
12 ~~subject to chapter 76, to~~] Hearings officers appointed under
13 section -5 shall hear and reach a preliminary decision on any
14 matter concerning the implementation or administration of the
15 state water code [~~which~~] that the commission may refer to the
16 hearings officers by rule or otherwise.

17 (b) In assigning matters to hearings officers, the
18 [~~chairperson~~] chief hearings officer appointed under
19 section -3 shall make the assignments in a manner [~~which~~]
20 that ensures [~~that~~] the hearings officers will develop
21 familiarity and expertise with given geographic areas."



1 SECTION 7. Section 231-7.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§231-7.5 Expedited appeals and dispute resolution**

4 **program.** (a) The [~~department~~] office of administrative
5 hearings established under chapter _____ shall [~~be authorized to~~]
6 implement an administrative appeals and dispute resolution
7 program that shall expeditiously resolve all tax, penalty,
8 interest, fine, assessment, and other such disputes between the
9 department and the taxpayer or return preparer. The [~~director~~
10 ~~or the director's designee, who shall report directly and be~~
11 ~~answerable solely to the director, shall serve as an independent~~
12 ~~appeals officer and~~] chief hearings officer appointed under
13 section _____ -3 or a hearings officer appointed under
14 section _____ -5 shall be authorized to compromise, settle, or
15 otherwise resolve any dispute on any basis, including hazards
16 and costs of litigation, considering equally the position of the
17 taxpayer and the department on an impartial basis. The
18 [~~independent appeals officer~~] chief hearings officer or hearings
19 officer shall not be influenced by any department tax compliance
20 initiatives and policies, or loss of revenue to the State.
21 Decisions of the [~~independent appeals~~] chief hearings officer or



1 hearings officer shall be in writing stating the facts,
2 analysis, and conclusions in support, which shall be provided to
3 the taxpayer and return preparer. Persons who currently serve
4 or have served in the previous five years as an auditor, audit
5 supervisor or manager, collector, collection supervisor or
6 manager, district manager or supervisor, or tax compliance
7 administrator, shall not be eligible to [~~be the director's~~
8 ~~designee.~~] serve as a hearings officer under this section.

9 (b) Notwithstanding any other law to the contrary,
10 including tax appeal procedures set forth under chapter 232, a
11 taxpayer shall be eligible to petition the [~~department~~] office
12 of administrative hearings established under chapter once
13 for participation in the administrative appeals and dispute
14 resolution program after issuance of a notice of proposed
15 assessment; provided that if a taxpayer has filed a tax appeal
16 with the tax appeal court or other court, the taxpayer shall
17 first be required to obtain the approval of the [~~director~~] chief
18 hearings officer appointed under section -3 and permission
19 from the respective court prior to petitioning the [~~department~~]
20 office of administrative hearings established under
21 chapter for participation. The [~~director~~] chief hearings



1 officer appointed under section -3 shall have the right to
2 deny a petition for cause.

3 (c) The [~~department~~] office of administrative hearings
4 established under chapter shall adopt procedures to carry
5 out the purposes of this section, including procedures relating
6 to ex parte communications between the [~~director or the~~
7 ~~director's designee~~] chief hearings officer appointed under
8 section -3 or a hearings officer appointed under
9 section -5 and other [~~department~~] office of administrative
10 hearings personnel to ensure that such communications do not
11 compromise or appear to compromise the independence of the
12 administrative appeals and dispute resolution program.

13 (d) The [~~director of taxation~~] chief hearings officer
14 appointed under section -3 may appoint [~~an administrative~~
15 ~~appeals officer~~] a hearings officer appointed under
16 section -5 as necessary to administer this section, and
17 perform other duties as directed by the [~~director. The~~
18 ~~administrative appeals officer shall be exempt from chapter 76~~
19 ~~and may be a legal or accounting professional;~~] chief hearings
20 officer; provided that an individual appointed under
21 section -5 may be an attorney licensed to practice in the



1 State or an accounting professional; provided further than no
2 individual appointed under [~~this~~] section -5 to administer
3 this section shall render legal services reserved to the
4 attorney general under chapter 28."

5 SECTION 8. All rights, powers, functions, and duties of
6 agencies in the department of budget and finance, department of
7 land and natural resources, and department of taxation, as
8 pertaining to this Act, are transferred to the office of
9 administrative hearings established by section 2 of this Act.

10 All employees who occupy civil service positions and whose
11 functions are transferred to the office of administrative
12 hearings by this Act shall retain their civil service status,
13 whether permanent or temporary. Employees shall be transferred
14 without loss of salary, seniority (except as prescribed by
15 applicable collective bargaining agreements), retention points,
16 prior service credit, any vacation and sick leave credits
17 previously earned, and other rights, benefits, and privileges,
18 in accordance with state personnel laws and this Act; provided
19 that the employees possess the minimum qualifications and public
20 employment requirements for the class or position to which
21 transferred or appointed, as applicable; provided further that



1 subsequent changes in status may be made pursuant to applicable
2 civil service and compensation laws.

3 Any employee who, prior to this Act, is exempt from civil
4 service and is transferred as a consequence of this Act may
5 retain the employee's exempt status, but shall not be appointed
6 to a civil service position as a consequence of this Act. An
7 exempt employee who is transferred by this Act shall not suffer
8 any loss of prior service credit, vacation or sick leave credits
9 previously earned, or other employee benefits or privileges as a
10 consequence of this Act; provided that the employees possess
11 legal and public employment requirements for the position to
12 which transferred or appointed, as applicable; provided further
13 that subsequent changes in status may be made pursuant to
14 applicable employment and compensation laws. The chief hearings
15 officer may prescribe the duties and qualifications of these
16 employees and fix their salaries without regard to chapter 76,
17 Hawaii Revised Statutes.

18 PART IV

19 SECTION 9. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so
21 much thereof as may be necessary for fiscal year 2023-2024 and



1 the same sum or so much thereof as may be necessary for fiscal
2 year 2024-2025 for the establishment of the office of
3 administrative hearings.

4 The sums appropriated shall be expended by the department
5 of accounting and general services for the purposes of this Act.

6 PART V

7 SECTION 10. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 11. This Act shall take effect on July 1, 2023;
10 provided that part III shall take effect on July 1, 2024;
11 provided further that on July 1, 2026, this Act shall be
12 repealed and sections 6E-10.5, 88-82, 174C-5, 174C-11, and
13 section 231-7.5, Hawaii Revised Statutes, shall be reenacted in
14 the form in which they read on the day prior to the effective
15 date of part III of this Act.

16

INTRODUCED BY: 

JAN 19 2023



H.B. NO. 373

Report Title:

Office of Administrative Hearings; Contested Case Hearings;
Department of Budget and Finance; Department of Land and Natural
Resources; Department of Taxation; Appropriation

Description:

Beginning 07/01/2024, establishes the office of administrative hearings to conduct contested case hearings in the department of budget and finance, department of land and natural resources, and department of taxation. Appropriates funds to establish the office of administrative hearings. Repeals 07/01/2026.

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

