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# 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



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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 20 2023



# H.B. NO. 424

**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.*

