
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 combines 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
17 prosecutorial functions. Approximately twenty-nine state and



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

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

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



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

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

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

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

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

19 (b) To facilitate the completion of the report by the
20 legislative reference bureau, all state departments and agencies
21 that conduct or delegate contested case hearings shall provide



1 the following data in an electronic format approved by the
2 legislative reference bureau for 2018 regarding all contested
3 case hearings to the legislative reference bureau by August 1,
4 2019:

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

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

18 (d) Each state department or agency that provides
19 information to the legislative reference bureau pursuant to this
20 section shall also specify whether the 2018 data is



1 representative of a typical year with regard to contested case
2 hearings for that department or agency.

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

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

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

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



Report Title:

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

Description:

Requires the Legislative Reference Bureau (LRB) 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 LRB. Requires LRB to research centralized administrative hearings offices in other jurisdictions. (HB1307 CD1)

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

