

HOUSE BILL 133

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HB 758/00 - JUD & CGM

2001 Regular Session
11r0307

By: **Delegates Vallario, Wood, Giannetti, Palumbo, Rawlings, R. Baker, Valderrama, Montague, Cole, Doory, Dembrow, Turner, Gladden, Griffith, Pitkin, Franchot, Zirkin, Arnick, Benson, Brinkley, Dypski, Sophocleus, K. Kelly, Boschert, Barkley, A. Jones, Conroy, Howard, Proctor, and Owings**

Introduced and read first time: January 17, 2001
Assigned to: Judiciary and Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Office of Administrative Hearings**

3 FOR the purpose of requiring the establishment of at least a certain number of
4 regional offices of the Office of Administrative Hearings; eliminating the
5 authority of the Chief Administrative Law Judge of the Office of Administrative
6 Hearings to establish qualifications for administrative law judges and to
7 appoint, remove, suspend, and demote administrative law judges; authorizing
8 the Governor to appoint administrative law judges with the advice and consent
9 of the Senate; requiring the Governor to consider geographical diversity in the
10 State as a factor in appointing administrative law judges; authorizing the
11 Governor to remove, suspend, or demote an administrative law judge under
12 certain circumstances; requiring an administrative law judge to devote full time
13 to the duties of the Office of Administrative Hearings; requiring certain
14 qualifications for appointment as an administrative law judge; providing for
15 taking a certain oath of office; establishing a certain term of office for certain
16 administrative law judges; providing for the application of certain provisions of
17 this Act concerning the appointment and term of an administrative law judge to
18 certain persons who are serving as administrative law judges on the effective
19 date of this Act; and generally relating to the Office of Administrative Hearings.

20 BY repealing and reenacting, with amendments,
21 Article - State Government
22 Section 9-1602, 9-1604(a), and 9-1605(a)
23 Annotated Code of Maryland
24 (1999 Replacement Volume and 2000 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

1

Article - State Government

2 9-1602.

3 (A) The Office of Administrative Hearings is created as an independent unit in
4 the Executive Branch of State government.

5 (B) TO ASSURE THAT THE SERVICES OF THE OFFICE OF ADMINISTRATIVE
6 HEARINGS ARE READILY AND PRACTICABLY AVAILABLE IN ALL AREAS OF THE
7 STATE, THE CHIEF ADMINISTRATIVE LAW JUDGE SHALL ESTABLISH AT LEAST ONE
8 REGIONAL OFFICE OF THE OFFICE OF ADMINISTRATIVE HEARINGS IN EACH OF THE
9 FOLLOWING REGIONS OF THE STATE:

10 (1) ALLEGANY, GARRETT, AND WASHINGTON COUNTIES;

11 (2) CALVERT, CHARLES, AND ST. MARY'S COUNTIES;

12 (3) CAROLINE, CECIL, DORCHESTER, KENT, QUEEN ANNE'S, SOMERSET,
13 TALBOT, WICOMICO, AND WORCESTER COUNTIES; AND

14 (4) ANNE ARUNDEL, BALTIMORE, CARROLL, FREDERICK, HARFORD,
15 HOWARD, PRINCE GEORGE'S, AND MONTGOMERY COUNTIES AND BALTIMORE CITY.

16 9-1604.

17 (a) The Chief Administrative Law Judge shall:

18 (1) supervise the Office of Administrative Hearings;

19 [(2) establish qualifications for administrative law judges;

20 (3) appoint and remove administrative law judges in accordance with §
21 9-1605 of this subtitle;]

22 [(4)] (2) assign administrative law judges to conduct hearings in
23 contested cases;

24 [(5)] (3) if necessary, establish classifications for case assignment on the
25 basis of subject matter, expertise, and case complexity;

26 [(6)] (4) establish and implement standard and specialized training
27 programs and provide materials for administrative law judges;

28 [(7)] (5) provide and coordinate continuing education programs and
29 services for administrative law judges, including research, technical assistance,
30 technical and professional publications, compiling and disseminating information,
31 and advise of changes in the law relative to their duties;

32 [(8)] (6) develop model rules of procedure and other guidelines for
33 administrative hearings;

1 [(9)] (7) develop a code of professional responsibility for administrative
2 law judges; and

3 [(10)] (8) monitor the quality of State administrative hearings.

4 9-1605.

5 (a) (1) An administrative law judge:

6 [(1)] (I) shall be a special appointment in the State Personnel
7 Management System;

8 (II) SHALL BE APPOINTED BY THE GOVERNOR, WITH THE ADVICE
9 AND CONSENT OF THE SENATE;

10 [(2)] (III) may be removed, suspended, or demoted, FOR CAUSE, by the
11 [Chief Administrative Law Judge for cause,] GOVERNOR AFTER GIVING DUE
12 CONSIDERATION TO THE RECOMMENDATION OF THE CHIEF ADMINISTRATIVE LAW
13 JUDGE AND after notice and an opportunity to be heard;

14 [(3)] (IV) shall receive the compensation provided in the State budget;
15 [and]

16 [(4)] (V) may not perform duties inconsistent with the duties and
17 responsibilities of an administrative law judge; AND

18 (VI) SHALL DEVOTE FULL TIME TO THE DUTIES OF THE OFFICE OF
19 ADMINISTRATIVE HEARINGS.

20 (2) THE GOVERNOR SHALL CONSIDER GEOGRAPHICAL DIVERSITY IN
21 THE STATE, WITH REFERENCE TO THE REGIONS IDENTIFIED IN § 9-1602 (B) OF THIS
22 SUBTITLE, AS A FACTOR IN APPOINTING ADMINISTRATIVE LAW JUDGES.

23 (3) EACH ADMINISTRATIVE LAW JUDGE SHALL:

24 (I) BE A RESIDENT OF THE STATE AT THE TIME OF APPOINTMENT;
25 AND

26 (II) BE ADMITTED TO THE PRACTICE OF LAW IN THE STATE FOR AT
27 LEAST 3 YEARS.

28 (4) BEFORE TAKING OFFICE, EACH APPOINTEE AS AN ADMINISTRATIVE
29 LAW JUDGE SHALL TAKE THE OATH REQUIRED BY ARTICLE 1, § 9 OF THE MARYLAND
30 CONSTITUTION.

31 (5) EXCEPT AS PROVIDED UNDER § 9-1603 OF THIS SUBTITLE, THE TERM
32 OF AN ADMINISTRATIVE LAW JUDGE SHALL BE FOR 10 YEARS.

33 (6) AT THE END OF A TERM, AN ADMINISTRATIVE LAW JUDGE
34 CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

1 SECTION 2. AND BE IT FURTHER ENACTED, That in the case of a person
2 serving as an administrative law judge on the effective date of this Act, the provisions
3 of this Act requiring an administrative law judge to be appointed by the Governor,
4 with the advice and consent of the Senate, shall apply to the administrative law judge
5 starting at the end of the administrative law judge's first 10-year term as calculated
6 under Section 3 of this Act.

7 SECTION 3. AND BE IT FURTHER ENACTED, That in the case of a person
8 serving as an administrative law judge on the effective date of this Act, the provisions
9 of this Act providing for a 10-year term for an administrative law judge shall be
10 calculated starting from the effective date of this Act.

11 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2001.