

HOUSE BILL 206

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HB 133/01 - JUD & CGM

2002 Regular Session
2lr0203

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

Introduced and read first time: January 18, 2002
Assigned to: Commerce and Government Matters and Judiciary

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; providing for the salary of an administrative law judge; requiring
10 the Governor to consider geographical diversity in the State as a factor in
11 appointing administrative law judges; authorizing the Governor to remove,
12 suspend, or demote an administrative law judge under certain circumstances;
13 requiring an administrative law judge to devote full time to the duties of the
14 Office of Administrative Hearings; requiring certain qualifications for
15 appointment as an administrative law judge; providing for taking a certain oath
16 of office; establishing a certain term of office for certain administrative law
17 judges; providing for the application of certain provisions of this Act concerning
18 the appointment and term of an administrative law judge to certain persons who
19 are serving as administrative law judges on the effective date of this Act; and
20 generally relating to the Office of Administrative Hearings.

21 BY repealing and reenacting, with amendments,
22 Article - State Government
23 Section 9-1602, 9-1604(a), and 9-1605(a)
24 Annotated Code of Maryland
25 (1999 Replacement Volume and 2001 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 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, FREDERICK, GARRETT, AND WASHINGTON COUNTIES;

11 (2) CALVERT, CHARLES, AND ST. MARY'S COUNTIES, THE SOUTHERN
12 PORTION OF ANNE ARUNDEL COUNTY, AND THE SOUTHERN PORTION OF PRINCE
13 GEORGE'S COUNTY;

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

16 (4) BALTIMORE, CARROLL, HARFORD, HOWARD, AND MONTGOMERY
17 COUNTIES, BALTIMORE CITY, THE NORTHERN PORTION OF ANNE ARUNDEL COUNTY,
18 AND THE NORTHERN PORTION OF PRINCE GEORGE'S COUNTY.

19 9-1604.

20 (a) The Chief Administrative Law Judge shall:

21 (1) supervise the Office of Administrative Hearings;

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

23 (3) appoint and remove administrative law judges in accordance with §
24 9-1605 of this subtitle;]

25 [(4)] (2) assign administrative law judges to conduct hearings in
26 contested cases;

27 [(5)] (3) if necessary, establish classifications for case assignment on the
28 basis of subject matter, expertise, and case complexity;

29 [(6)] (4) establish and implement standard and specialized training
30 programs and provide materials for administrative law judges;

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

1 [(8)] (6) develop model rules of procedure and other guidelines for
2 administrative hearings;

3 [(9)] (7) develop a code of professional responsibility for administrative
4 law judges; and

5 [(10)] (8) monitor the quality of State administrative hearings.

6 9-1605.

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

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

10 (II) SHALL BE APPOINTED BY THE GOVERNOR AFTER GIVING DUE
11 CONSIDERATION TO THE RECOMMENDATION OF THE CHIEF ADMINISTRATIVE LAW
12 JUDGE, WITH THE ADVICE AND CONSENT OF THE SENATE;

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

17 [(3)] (IV) shall receive [the compensation provided in the State budget] A
18 SALARY THAT IS TWO-THIRDS OF A DISTRICT COURT JUDGE'S SALARY; [and]

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

21 (VI) SHALL DEVOTE FULL TIME TO THE DUTIES OF THE OFFICE OF
22 ADMINISTRATIVE HEARINGS.

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

26 (3) EACH ADMINISTRATIVE LAW JUDGE SHALL:

27 (I) BE A RESIDENT OF THE STATE AT THE TIME OF APPOINTMENT;
28 AND

29 (II) 1. BE ADMITTED TO THE PRACTICE OF LAW IN THE STATE
30 FOR AT LEAST 3 YEARS; OR

31 2. HAVE AT LEAST 5 YEARS EXPERIENCE AS AN
32 ADMINISTRATIVE LAW JUDGE.

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

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

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

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

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

15 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2002.