

**Department of Legislative Services**

Maryland General Assembly

2002 Session

**FISCAL NOTE****Revised**

Senate Bill 31

(Senator Haines)

Judicial Proceedings

Commerce and Government Matters

**Administrative Procedure Act - Contested Cases - Time Limit for Making Final Decision**

This bill provides that, except as provided otherwise by law or by agreement of the parties, the final administrative decision in a contested case must be made within 90 days after exceptions to the proposed final decision are filed or argument is presented before the final decision maker (or majority of officials making the final decision), whichever is later.

The bill applies to any proposed decision issued in a contested case after the bill's October 1, 2002 effective date.

**Fiscal Summary**

**State Effect:** Special fund expenditures would increase by \$56,400 beginning in FY 2003, with future years reflecting annualization, salary increases, and inflation.

(in dollars)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	56,400	73,900	77,700	81,700	86,000
Net Effect	(\$56,400)	(\$73,900)	(\$77,700)	(\$81,700)	(\$86,000)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** Minimal.

## Analysis

**Current Law:** Under the Administrative Procedures Act -- Contested Cases, a State agency may delegate to the Office of Administrative Hearings (OAH) authority to issue: proposed or final findings of fact; conclusions of law; findings of fact and conclusions of law; final order or orders related to the Human Relations Commission; or the final administrative decision of the agency in a contested case. OAH has 90 days after the hearing to complete the procedure authorized by the State agency. This time limit can be extended by written approval of the Chief Administrative Law Judge.

Consequently, if the authority to issue a final administrative decision has been delegated to OAH by a State agency, the final decision would be made within 90 days of the hearing.

If a State agency does not delegate authority to the OAH for the final administrative decision and a majority of the officials who are to make the final decision did not preside over the hearing, the officials may not, under current law, make a decision until each party has been provided notice of the proposed decision and is given the opportunity to file exceptions to the decision and present arguments to the majority of officials. The 90-day limit for issuing a final decision does not apply to this type of contested case.

**State Fiscal Effect:** All but one of the State agencies responding to a request for information advised that the bill would have no fiscal impact on their operations. A few agencies noted that because complex cases normally take longer for decisions, there might be an administrative burden for the shifting of resources to meet the new 90-day deadline.

The Maryland Insurance Administration (MIA) reports that it handles an average of 46 cases a year that would be subject to the deadline. For each case approximately five days of an assistant attorney general's time is required to perform the necessary legal research, review of materials, and order preparation. Because only 40% of an assistant attorney general's time is currently devoted to this task, the final decisions in the cases currently take an average of 4.5 months. To meet the 90-day deadline, an additional assistant attorney general is necessary.

As a result, special fund expenditures could increase by \$56,400 in fiscal 2003, which accounts for the bill's October 1, 2002 effective date. This estimate includes the cost of hiring one additional assistant attorney general, and includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$53,300
Operating Expenses	<u>3,100</u>
<b>Total FY 2003 State Expenditures</b>	<b>\$56,400</b>

Future year expenditures reflect: (1) full salaries with a 2.5% increase in fiscal 2004 and a 3.5% increase each year thereafter, with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Because the MIA budget is funded by special funds from assessments on insurers and licensing fees, for any increase in expenditures there is the potential for an increase in special fund revenues for the Insurance Regulation Fund.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Office of Administrative Hearings, Department of Budget and Management, Department of Natural Resources, Department of Agriculture, Office of the Comptroller, Maryland Insurance Administration, Department of the Environment, Department of Health and Mental Hygiene, Department of Housing and Community Development, Human Relations Commission, Department of Transportation, Department of Legislative Services

**Fiscal Note History:** First Reader - January 18, 2002  
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