

Department of Legislative Services

Maryland General Assembly

2002 Session

FISCAL NOTE

Senate Bill 32

(Senator Haines)

Education, Health, and Environmental Affairs

Administrative Procedure Act - Contested Cases - Department of the Environment

This bill transfers the authority to conduct contested case hearings from the Maryland Department of the Environment (MDE) to the Office of Administrative Hearings (OAH). The bill also authorizes OAH to issue the final administrative decision in all contested cases from MDE.

Fiscal Summary

State Effect: The bill's requirements could be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: MDE is authorized to conduct a contested case hearing or delegate the authority to conduct the hearing to OAH or, with the prior written approval of the Chief Administrative Law Judge, a person not employed by OAH. MDE may delegate to OAH the authority to issue proposed or final findings of fact, proposed or final conclusions of law, proposed or final findings of fact and conclusions of law, proposed or final orders, or the final administrative decision of the agency in a contested case.

Promptly after receipt of a request for a contested case hearing, MDE must notify the parties that the authorized agency head, board, or commission shall conduct the hearing,

transmit the request to OAH, or request approval for a person not employed by OAH to conduct the hearing. MDE has the authority to require the person making the request to file additional information if a request for a hearing is vague or ambiguous. MDE must review the request for adjudication. MDE must dismiss all or any part of a request if MDE determines that the person is not entitled to a contested case hearing. When a summary disposition does not dispose of the entire action and a contested case hearing is necessary, the MDE official or administrative law judge issuing the summary disposition may enter an order specifying the issues or facts that are not in dispute. MDE may modify the order to prevent manifest injustice.

Background: While MDE delegates responsibility for holding hearings and rendering proposed decisions on all contested cases to OAH, it retains the authority to review proposed decisions and issue final decisions on those cases. During the past six years, MDE has handled 134 such cases. According to MDE, the length of time it takes MDE to issue final decisions varies by case but can range from a few weeks to over a year.

State Fiscal Effect: MDE currently has one permanent employee who reviews decisions proposed by OAH and issues final decisions on contested cases. According to MDE, approximately 50% of that employee's job is dedicated to those functions. By authorizing OAH to issue final decisions, this bill would eliminate the need for half a position. However, because the employee is a permanent employee, it is assumed that MDE would not eliminate that portion of the position but would instead transfer additional responsibilities to the affected employee. Should this occur, the bill would have no fiscal impact on MDE. For informational purposes, the cost of 50% of the salary and fringe benefits associated with the affected position is estimated at \$24,600 in fiscal 2003, which reflects the bill's October 1, 2002 effective date.

Because OAH already holds hearings and renders proposed decisions on these cases now, it is assumed that OAH can handle the bill's changes with existing budgeted resources.

Additional Information

Prior Introductions: HB 256 of 2001 would have transferred authority to conduct contested case hearings and render final decisions from MDE to OAH. The bill received an unfavorable report by the House Environmental Matters Committee.

Cross File: None.

Information Source(s): Department of Budget and Management, Maryland Department of the Environment, Office of Administrative Hearings, Department of Legislative Services

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