

Department of Legislative Services  
Maryland General Assembly  
2002 Session

**FISCAL NOTE**

Senate Bill 393 (Senator Baker)  
Judicial Proceedings

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**Office of Administrative Hearings**

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This bill authorizes the Governor to appoint, suspend, demote, or remove each administrative law judge (ALJ), establishes the qualifications for an ALJ, fixes an ALJ's term at ten years, and alters other provisions of law relating to ALJs.

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**Fiscal Summary**

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

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The bill requires the Governor to appoint an ALJ, with the advice and consent of the Senate, after giving due consideration to the Chief ALJ's recommendation, and with consideration given to the racial, gender, and geographical diversity of the State. An ALJ must devote full time to the duties of the Office of Administrative Hearings (OAH). Further, an ALJ must:

- be a resident of the State at the time of appointment;
- be admitted to the practice of law in the State; and
- have at least five years experience in the practice of law.

Before taking office, an ALJ is required to take the oath required by Article 1, § 9 of the Maryland Constitution.

Except for the Chief ALJ, an ALJ's term is set at ten years, but an ALJ may be removed, suspended, or demoted by the Governor, for cause, after giving due consideration to the recommendation of the Chief ALJ, and after notice and an opportunity to be heard.

In the case of a person serving as an ALJ on the bill's October 1, 2002 effective date, the bill's provision for a ten-year term shall be calculated starting from October 1, 2002. The bill's requirement that an ALJ be appointed by the Governor with the advice and consent of the Senate shall apply to that ALJ starting at the end of his or her first ten-year term.

**Current Law:** ALJs are State employees who are appointed and removed by the Chief ALJ, who is appointed by the Governor with the advice and consent of the Senate and serves for a term of six years. The Chief ALJ is not term limited. There is no set term for an ALJ and there are no statutory qualifications. An ALJ is not required to devote full time to the duties of OAH, and there is no statutory guidance requiring consideration of the demographic composition of the State in making ALJ appointments.

**Background:** OAH is an independent unit of State government within the Executive Branch that adjudicates administrative matters. In presiding over a case, an ALJ is authorized to administer oaths, examine individuals under oath, issue subpoenas, and compel the production of documents.

In addition to its main offices in Hunt Valley, OAH presently maintains office space in Cumberland and Salisbury and holds hearings in jurisdictions throughout the State.

OAH advises that it hears cases in approximately 250 hearing locations around the State and in no less than three locations in every county. Except in very few cases, hearings are scheduled in the jurisdiction in which the citizen resides. In addition to designated hearing space, OAH notes that it also holds hearings in MVA offices, Social Security offices, psychiatric hospitals, nursing homes, correctional facilities, and citizens' homes, and that video hearings and telephone hearings are available, if necessary.

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### **Additional Information**

**Prior Introductions:** In 2001, HB 133, a substantially similar bill, was not reported out of the Judiciary or Commerce and Government Matters committees.

**Cross File:** None, although HB 206 (Delegate Vallario, *et al.*) is similar.

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

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