

Department of Legislative Services
 Maryland General Assembly
 2002 Session

FISCAL NOTE

House Bill 206 (Delegate Vallario, *et al.*)
 Commerce and Government Matters and Judiciary

Office of Administrative Hearings

This bill requires the Chief Administrative Law Judge to establish at least one regional office of the Office of Administrative Hearings (OAH) in each of four geographically dispersed State regions. It requires the Governor to appoint each administrative law judge (ALJ) and fixes an ALJ's term at ten years. The bill sets an ALJ's salary at two-thirds of a District Court judge's salary.

Fiscal Summary

State Effect: Reimbursable fund expenditures would increase by \$264,400 in FY 2003, the bulk of which represents salary increases for ALJs. Out-year expenditures reflect annualization and inflation.

(in dollars)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Revenues	\$0	\$0	\$0	\$0	\$0
GF/SF/FF Exp.	264,400	(354,100)	(366,100)	(378,400)	(391,200)
Net Effect	(\$264,400)	\$354,100	\$366,100	\$378,400	\$391,200

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires OAH to have at least one office in each of the following regions:

- Allegany, Frederick, Garrett, and Washington counties;
- Calvert, Charles, and St. Mary's counties, the southern portion of Anne Arundel County, and the southern portion of Prince George's County;
- Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester counties; and
- Baltimore, Carroll, Harford, Howard, and Montgomery counties, Baltimore City, the northern portion of Anne Arundel County, and the northern portion of Prince George's County.

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 to the geographical diversity of the State. An ALJ must be a State resident and devote full time to the duties of OAH. Further, an ALJ must: (1) be admitted to practice law in Maryland for at least three years; or (2) have five years of experience as an 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.

The bill sets an ALJ's salary at two-thirds of that of an Associate Judge in the District Court.

Current Law: ALJs are State employees appointed and removed by the Chief ALJ. There is no set term for an ALJ. An ALJ's salary is not specified as being other than that which is provided in the budget.

The current salary of an Associate Judge of the District Court of Maryland is \$111,500.

There are no provisions concerning how many offices OAH must maintain.

Background: OAH is an independent unit of State government within the executive branch that adjudicates administrative matters outside the District Court and circuit courts. 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.

State Fiscal Effect: OAH is funded almost exclusively through reimbursable funds, which are charged to the agencies for which it performs adjudicatory services. Thus, the fiscal impact of this bill would be spread amongst all agencies that reimburse OAH for those services.

A District Court judge's compensation is currently set at \$111,500; this bill sets an ALJ's salary at two-thirds of that figure, or \$73,590. OAH advises that there are currently 58 ALJs, 36 of whom earn below \$73,590 and 22 of whom earn above that figure. If all current ALJ salaries were adjusted to \$73,590 on the bill's effective date -- October 1, 2002 -- there would be \$408,147 in salary raises and \$83,596 in salary decreases. Adjusted for the bill's October 1, 2002 effective date, the fiscal 2003 net impact of the salary adjustment would be a \$243,400 increase in reimbursable fund expenditures.

In addition to the salary expenditure, in fiscal 2003 OAH's costs would include \$12,750 for rent to establish a southern Maryland office, \$7,500 for equipment and furniture, and \$775 for supplies and data/communication operations -- an additional \$21,000 in expenditures. Accordingly, the total fiscal 2003 impact of this bill is \$264,400 in reimbursable funds.

Out-year expenditures are adjusted for annualization and inflation and reflect the rent and supplies/communications expenses of the southern Maryland office, and the projected salary increases.

Additional Comments: If the recommendations of the Judicial Compensation Commission (HJ 5/SJ 5) take effect, Associate Judges of the District Court will earn \$117,100 beginning January 1, 2003 and, accordingly, ALJs' salaries would increase to two-thirds of that figure, or \$77,286.

Additional Information

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

Cross File: None.

Information Source(s): Office of Administrative Hearings, Department of Legislative Services

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