

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE

Senate Bill 124 (Senator Brochin)
 Judicial Proceedings

Office of Administrative Hearings - Contested Cases - Time Limit

This bill reduces the time limit for the Office of Administrative Hearings (OAH) to complete a contested case from 90 days to 45 days after completion of the hearing. The bill applies prospectively to contested case hearings conducted after the bill's October 1, 2009 effective date.

Fiscal Summary

State Effect: General fund expenditures increase by approximately \$213,900 in FY 2010 due to an anticipated need for additional staff to adjudicate cases more rapidly. Future year expenditure estimates reflect annualization and inflation. No effect on revenues.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	213,900	272,200	285,000	298,300	312,400
Net Effect	(\$213,900)	(\$272,200)	(\$285,000)	(\$298,300)	(\$312,400)

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

Local Effect: None. Altering the time limit for contested cases does not affect local governmental finances.

Small Business Effect: None.

Analysis

Current Law: Boards, commissions, and agency heads can conduct contested case hearings, or delegate the authority to OAH or – with the Chief Administrative Law Judge’s approval – to a person outside OAH.

OAH may issue proposed or final findings of fact and/or conclusions of law, proposed or final orders, or the final administrative decision in a contested case.

After the conclusion of a hearing conducted by OAH in a delegated contested case, OAH has 90 days to complete the procedure authorized in the agency’s delegation. The time limit may be extended with the written approval of the Chief Administrative Law Judge.

Background: State law, through the Administrative Procedure Act of the State Government Article, establishes procedures to resolve contested agency actions through an impartial administrative hearing. In 1990, the legislature created OAH in furtherance of the effort to centralize the administrative hearing process of government agencies in the State. Maryland is one of 27 states to establish a centralized office for the purpose of administrative adjudication.

OAH conducts hearings for approximately 22 State agencies, in over 200 different types of contested cases. OAH received 49,253 hearing requests in fiscal 2008 and held 30,002 hearings. In the majority of cases, the judge issued a bench decision; thus, the procedure was completed at the end of the hearing. However, in 2,976 cases the judge issued a written decision. Cases that result in written decisions are more complicated and take longer to finalize. The Governor’s proposed fiscal 2010 budget provides 53 administrative law judges including the chief.

Emergency cases or cases in which a person’s liberty is at stake (*e.g.*, involuntary admission to a mental institution) are usually resolved within 7 to 10 days.

Time limits are also established by agency regulation; for instance, special education cases must be resolved within 45 days of the resolution conference held on the matter. According to OAH, cases are sometimes delayed by agencies, which occasionally results in procedures that do not meet the 90-day deadline. OAH advises that 98% of its cases are resolved within 90 days of the final hearing.

State Expenditures: OAH advises that the shorter timeframe in the bill may negatively impact the quality of the agency’s work and that it needs to hire three additional staff members in order to meet the requirements of the bill. Legislative Services concurs.

General fund expenditures increase by \$213,911 in fiscal 2010, which accounts for the bill's October 1, 2009 effective date. This estimate reflects the cost of hiring two administrative law judges and one staff attorney to hear cases, research issues, and write decisions in the more limited timeframe proposed by this bill. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	3
Salaries and Fringe Benefits	\$195,033
Additional Equipment and Supplies	<u>18,878</u>
Total FY 2010 State Expenditures	\$213,911

Future year expenditures reflect full salaries with 4.4% annual increases and 3% employee turnover.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Office of Administrative Hearings; Department of Legislative Services.

Fiscal Note History: First Reader - January 28, 2009
mcp/rhh

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