

Section 120.65

CHAPTER 74-310

Section 1. Chapter 120, Florida Statutes, consisting of sections 120.50, 120.51, 120.52, 120.53, 120.54, 120.55, 120.56, 120.57, 120.58, 120.59, 120.60, 120.61, 120.62, 120.63, 120.64, 120.65, 120.66, 120.68, 120.69, 120.70, and 120.71, is created to read:

120.65 Hearing officers.--

(1) There is hereby created the Division of Administrative Hearings within the Department of Administration, to be headed by a director who shall be appointed by the Administration Commission and confirmed by the senate. The division shall be exempt from the provisions of chapter 216.

(2) The division shall employ full-time hearing officers to conduct hearings required by this chapter or other law. No person may be employed by the division as a full-time hearing officer unless he has been a member of The Florida Bar in good standing for the preceding three years.

(3) By rule, the division may establish further qualifications for hearing officers and shall establish procedures by which candidates will be considered for employment or contract, the manner in which public notice will be given of vacancies in the staff of hearing officers, and procedures for the assignment of hearing officer.

(4) Beginning July 1, 1975, all costs of administrating the division shall be paid to the division trust fund on a pro rata basis by the agencies using its services. The division shall submit statements to the agencies at least quarterly.

(5) There is hereby created in the state treasury a revolving fund to be known as the division of administrative hearings revolving trust fund. All fees and other moneys collected by the division for services rendered under this act shall be deposited in the revolving trust fund and expenses of the division shall be paid from the fund.

(6) The division is authorized to provide hearing officers on a contract basis to any governmental entity to conduct any hearing not covered by this section.

(7) The division shall have the authority to adopt reasonable rules to carry out the provisions of this act.

CHAPTER 75-191

Section 9. Subsection (2) and (4) of section 120.65, Florida Statutes, 1974 Supplement, are amended, present subsections (3), (5), (6), and (7) are renumbered as subsections (5), (7), (8), and (9), respectively, and new subsections (3) and (4) are added to section 120.65, Florida Statutes, to read:

120.65 Hearing officers.--

(2) The division shall employ full-time, ~~or contract for~~, hearing officers to conduct hearings required by this chapter or other law. No person may be employed by the division as a full-time hearing officer unless he has been a member of The Florida Bar in good standing for the preceding 3 years.

(3) If the division cannot furnish a division hearing officer promptly in response to an agency request, the director shall designate in writing a qualified full-time employee of an agency, other than the requesting agency, to conduct the hearing. The director shall have the discretion to designate a hearing officer who is a qualified full-time employee of an agency, other than the requesting agency, which is located in that part of the state where the parties and witnesses reside.

(4) The director shall have the discretion to designate qualified laypersons to conduct hearings. If a layperson is so designated, the director shall assign a hearing officer to assist in the conduct of the hearing, to rule upon proffers of proof, questions of evidence, disposition of procedural requests and similar matters.

~~(6)~~(4) Beginning July 1, 1976, ~~July 1, 1975~~, all costs of administering the division shall be paid to the division trust fund on a pro rata basis by the agencies using its services. The division shall submit statements to the agencies at least quarterly.

CHAPTER 76-131

Section 14. Subsections (6) and (7) of section 120.65, Florida Statutes, as created by chapter 74-310 and as amended by chapter 75-191, Laws of Florida, are hereby repealed.

CHAPTER 78-425

Section 9. Subsection (2) of section 120.65, Florida Statutes, is amended to read:

120.65 Hearing officers.--

(2) The division shall employ full-time hearing officers to conduct hearings required by this chapter or other law. No person may be employed by the division as a full-time hearing

officer unless he has been a member of The Florida Bar in good standing for the preceding 5 3 years.

CHAPTER 79-190

Section 46. Subsection (1) of section 120.65, Florida Statutes 1978 Supplement, is amended to read

120.65 Hearing officers.--

(1) There is hereby created the Division of Administrative Hearings within the Department of Administration, to be headed by a director who shall be appointed by the Administration Commission and confirmed by the senate. The division shall be exempt from the provisions of chapter 216. The Department of Administration shall provide administrative support and service to the division. The division shall not be subject to control, supervision, or direction by the Department of Administration.

CHAPTER 86-297

Section 1. Subsection (1) of section 120.65, Florida Statutes, is amended and present subsections (2), (3), (4), (5), (6), and (7) are renumbered as subsections (4), (5), (6), (7), (8) and (9), respectively, and new subsections (2) and (3) are added to said section to read:

120.65 Hearing officers.--

(1) There is hereby created the Division of Administrative Hearings within the Department of Administration, to be headed by a director who shall be appointed by the Administration Commission and confirmed by the Senate. The division shall be a separate budget entity and the director shall be its agency head for all purposes exempt from the provisions of chapter 216. The Department of Administration shall provide administrative support and service to the division to the extent requested by the director. The division shall not be subject to control, supervision, or direction by the Department of Administration in any manner including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters.

(2) The director has the right to appeal actions by the Executive Office of the Governor that affect amendments to the division's approved operating budget or any personnel actions pursuant to chapter 216 to the Administration Commission, which shall decide such issues by majority vote. The appropriations committees may advise the Administration Commission on the issue. If the president of the Senate and the Speaker of the House of Representatives object in writing to the effects of the appeal, the appeal may be affirmed by the affirmative vote of two-thirds of the commission members present.

(3) All state agencies as defined in chapter 216 and all political subdivisions shall make their facilities available for use by the division in conducting proceedings pursuant to this chapter, at a time convenient to the provider.

CHAPTER 87-6

Section 46. Subsections (5), (6), (7), (8), and (9), of section 120.65, 1986 Supplement, are redesignated as subsections (6), (7), (8), (9), and (10), respectively, and a new subsection (5) is added to said section to read:

120.65 Hearing officers.--

(5) The director shall appoint, from among the full-time hearing officers of the division, a panel consisting of three members to be the hearing officer in all proceedings brought as provided in s. 120.575(1)(b). Such appointments shall be made with due regard to the expertise required for determination of such proceedings. Service as a member of such panel shall be at the pleasure of the director, and such service may be in addition to other duties of employment by the division.

CHAPTER 87-101

Section 25. Subsection (5) of section 120.65, Florida Statutes, as created by chapter 87-6, Laws of Florida, is amended to read:

120.65 Hearing officers.--

(5) The director shall appoint, from among the full-time hearing officers of the division, a panel consisting of one to three members to be the hearing officer in all proceedings brought as provided in s. 120.575(1)(b). The director shall have the discretion to determine the size of the panel based upon the complexity and precedential importance of the issues involved, and the amount of potential revenues in dispute. Such appointments shall be made with due regard to the expertise required for determination of such proceedings. Service as a member of such panel shall be at the pleasure of the director, and such service may be in addition to other duties of employment by the division.

CHAPTER 88-1

Section 54.

120.65 Hearing officers.--

(10) Rules promulgated by the Division of Administrative Hearings pursuant to this section, s. 120.53, or s. 120.65 may authorize any reasonable sanctions except contempt for

violation of the rules of the division or failure to comply with a reasonable order issued by a hearing officer, which is not under judicial review.

CHAPTER 88-277

Section 30. Section 54 of chapter 88-1, Laws of Florida, is reenacted and amended to read:

Section 54.

120.65 Hearing officers.--

(10) Rules promulgated by the Division of Administrative Hearings pursuant to this section, s. 120.53, or s. 120.65 Florida Statutes, may authorize any reasonable sanctions except contempt for violation of the rules of the Division or failure to comply with a reasonable order issued by a Hearing Officer, which is not under judicial review.

CHAPTER 91-30

120.65 Hearing officers.--

Section 7. The Division of Administrative Hearings shall direct a study and pilot project to implement a full text retrieval system to provide access to recommended orders, final orders, and declaratory statements.

CHAPTER 92-279

Section 51. Subsections (1) and (2) of section 120.65, Florida Statutes, are amended to read:

120.65 Hearing officers

(1) There is hereby created the Division of Administrative Hearings within the Department of Management Services Administration to be headed by a director who shall be appointed by the Administration Commission and confirmed by the Senate. The division shall be a separate budget entity, and the director shall be its agency head for all purposes. The Department of Management Services Administration shall provide administrative support and service to the division to the extent requested by the director. The division shall not be subject to control, supervision, or direction by the Department of Management Services Administration in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters.

(2) The director has the right to appeal actions by the Executive Office of the Governor that affect amendments to the division's approved operating budget or any personnel actions pursuant to chapter 216 to the Administration Commission, which shall decide such issue by majority

vote. The appropriations committees may advise the Administration Commission on the issue. If the President of the Senate and the Speaker of the House of Representatives object in writing to the effects of the appeal, the appeal may be affirmed by the affirmative vote of two-thirds of the commission members present. The failure of the Executive Office of the Governor to act on a request for action by the director within 21 days after receiving a written request constitutes approval of the request.

CHAPTER 92-315

Section 23. Subsection (5) of section 120.65, Florida Statutes, is hereby repealed.

CHAPTER 92-326

Section 55. Section 339 of Chapter 92-279, Laws of Florida, is amended to read:

Section 339. Except as otherwise expressly provided in this act, this act shall take effect July 1, 1992 ~~January 1, 1993~~, except that this section and sections 322, 323, 324, and 325 of this act shall take effect upon this act becoming a law.

CHAPTER 95-147

Section 764. Subsection (4) of section 120.65, Florida Statutes, is amended to read:

120.65 Hearing officers.—

(4) The division shall employ full-time hearing officers to conduct hearings required by this chapter or other law. No person may be employed by the division as a full-time hearing officer unless he or she has been a member of The Florida Bar in good standing for the preceding 5 years.

CHAPTER 96-159

Section 1. It is the intent of the Legislature to consider the impact of any agency rulemaking required by proposed legislation and to determine whether the proposed legislation provides adequate and appropriate standards and guidelines to direct the agency's implementation of the proposed legislation.

Section 31. Section 120.65, Florida Statutes, is amended to read:

120.65 Administrative law judges ~~Hearing officers~~

(1) ~~There is hereby created~~ The Division of Administrative Hearings within the Department of Management Services shall ~~to~~ be headed by a director who shall be appointed by the

Administration Commission and confirmed by the Senate. The division shall be a separate budget entity, and the director shall be its agency head for all purposes. The Department of Management Services shall provide administrative support and service to the division to the extent requested by the director. The division shall not be subject to control, supervision, or direction by the Department of Management Services in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters.

(2) The director has the right to appeal actions by the Executive Office of the Governor that affect amendments to the division's approved operating budget or any personnel actions pursuant to chapter 216 to the Administration Commission, which shall decide such issue by majority vote. The appropriations committees may advise the Administration Commission on the issue. If the President of the Senate and the Speaker of the House of Representatives object in writing to the effects of the appeal, the appeal may be affirmed by the affirmative vote of two-thirds of the commission members present. The failure of the Executive Office of the Governor to act on a request for action by the director within 21 days after receiving a written request constitutes approval of the request.

(3) Each state agency as defined in chapter 216 and each political subdivision shall make its facilities available, at a time convenient to the provider, for use by the division in conducting proceedings pursuant to this chapter.

(4) The division shall employ administrative law judges ~~full-time hearing officers~~ to conduct hearings required by this chapter or other law. Any ~~No~~ person ~~may be employed by the division as an administrative law judge must have~~ ~~a full-time hearing officer unless he or she has been a member of The Florida Bar in good standing for the preceding 5 years.~~

(5) If the division cannot furnish a division administrative law judge ~~hearing officer~~ promptly in response to an agency request, the director shall designate in writing a qualified full-time employee of an agency other than the requesting agency to conduct the hearing. The director shall have the discretion to designate such a hearing officer who is ~~a qualified full-time employee of an agency other than the requesting agency which is located in that part of the state where the parties and witnesses reside.~~

~~(6) The director shall have the discretion to designate qualified laypersons to conduct hearings. If a layperson is so designated, the director shall assign a hearing officer to assist in the conduct of the hearing and to rule upon proffers of proof, questions of evidence, disposition of procedural requests, and similar matters~~

~~(6)(7)~~ By rule, the division may establish:

(a) Further qualifications for administrative law judges ~~hearing officers~~ and shall establish procedures by which candidates will be considered for employment or contract.

(b) The manner in which public notice will be given of vacancies in the staff of administrative law judges ~~hearing officers~~.

(c) Procedures for the assignment of administrative law judges ~~hearing officers~~.

~~(7)(8)~~ The division is authorized to provide administrative law judges ~~hearing officers~~ on a contract basis to any governmental entity to conduct any hearing not covered by this section.

~~(8)(9)~~ The division shall have the authority to adopt reasonable rules to carry out the provisions of this act.

~~(9)(10)~~ Rules promulgated by the division of ~~Administrative Hearings~~ pursuant to this section, s. 120.53, or s. 766.207 may authorize any reasonable sanctions except contempt for violation of the rules of the division or failure to comply with a reasonable order issued by an administrative law judge ~~a hearing officer~~, which is not under judicial review.

(10) Not later than February 1 of each year, the division shall issue a written report to the Administrative Procedures Committee and the Administration Commission, including at least the following information:

(a) A summary of the extent and effect of agencies' utilization of administrative law judges, court reporters, and other personnel in proceedings under this chapter.

(b) Recommendations for change or improvement in the Administrative Procedure Act or any agency's practice or policy with respect thereto.

CHAPTER 97-176

Committee Substitute for Senate Bill No. 1066

Section 13. Subsection (1) of section 120.65, Florida Statutes, 1996 Supplement, is amended to read:

120.65 Administrative law judges.—

(1) The Division of Administrative Hearings within the Department of Management Services shall be headed by a director who shall be appointed by the Administration Commission and confirmed by the Senate. The director, who shall also serve as the chief administrative law judge, and any deputy chief administrative law judge must possess the same minimum qualifications as the administrative law judges employed by the division. The division shall be a separate budget entity, and the director shall be its agency head for all purposes. The Department of Management Services shall provide administrative support and service to the division to the extent requested by the director. The division shall not be subject to control, supervision, or direction by the Department of Management Services in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters.

CHAPTER 2000-371

House Bill No. 2377

Section 38. Subsection (2) of section 120.65, Florida Statutes, is amended to read:

120.65 Administrative law judges.—

(2) The director has the right to appeal actions by the Executive Office of the Governor that affect amendments to the division's approved operating budget or any personnel actions pursuant to chapter 216 to the Administration Commission, which shall decide such issue by majority vote. The appropriations committees may advise the Administration Commission on the issue. If the President of the Senate and the Speaker of the House of Representatives object in writing to the effects of the appeal, the appeal may be affirmed by the affirmative vote of two-thirds of the commission members present. ~~The failure of the Executive Office of the Governor to act on a request for action by the director within 21 days after receiving a written request constitutes approval of the request.~~

CHAPTER 2001-91

Committee Substitute for House Bill No. 1803

Section 4. Subsection (1) of section 120.65, Florida Statutes, is amended to read:

120.65 Administrative law judges.—

(1) The Division of Administrative Hearings within the Department of Management Services shall be headed by a director who shall be appointed by the Administration Commission and confirmed by the Senate. The director, who shall also serve as the chief administrative law judge, and any deputy chief administrative law judge must possess the same minimum qualifications as the administrative law judges employed by the division. The Deputy Chief Judge of Compensation Claims must possess the minimum qualifications established in s. 440.45(2) and shall report to the director. The division shall be a separate budget entity, and the director shall be its agency head for all purposes. The Department of Management Services shall provide administrative support and service to the division to the extent requested by the director. The division shall not be subject to control, supervision, or direction by the Department of Management Services in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters.

CHAPTER 2004-247

House Bill No. 1869

Section 1. Subsection (11) is added to section 120.65, Florida Statutes, to read:

120.65 Administrative law judges.—

(11) The division shall be reimbursed for administrative law judge services and travel expenses by the following entities: water management districts, regional planning councils, school districts, community colleges, the Division of Community Colleges, state universities, the State Board of Education, the Florida School for the Deaf and the Blind, and the Commission for Independent Education. These entities shall contract with the division to establish a contract rate for services and provisions for reimbursement of administrative law judge travel expenses and video conferencing expenses attributable to hearings conducted on behalf of these entities. The contract rate must be based on a total-cost-recovery methodology.

Section 2. This act shall take effect July 1, 2004.

Approved by the Governor May 25, 2004.

Filed in Office Secretary of State May 25, 2004.

CHAPTER 2006-82

Committee Substitute for Committee Substitute for Senate Bill No. 262

Section 8. Paragraphs (c) and (d) are added to subsection (10) of section 120.65, Florida Statutes, to read:

120.65 Administrative law judges.—

(10) Not later than February 1 of each year, the division shall issue a written report to the Administrative Procedures Committee and the Administration Commission, including at least the following information

(c) Recommendations as to those types of cases or disputes which should be conducted under the summary hearing process described in s. 120.574.

(d) A report regarding each agency's compliance with the filing requirement in s. 120.57(1)(m).

CHAPTER LAW 2009-187

Committee Substitute for Senate Bill 2188

Section 8. Subsection (11) of section 120.65, Florida Statutes, is amended to read:

120.65 Administrative law judges.—

(11) The division shall be reimbursed for administrative law judge services and travel expenses by the following entities: water management districts, regional planning councils, school districts, community colleges, the Division of ~~Florida Community~~ Colleges, state universities, the Board of Governors of the State University System, the State Board of Education, the Florida School for the Deaf and the Blind, and the Commission for Independent Education. These entities shall contract with the division to establish a contract rate for services and provisions for reimbursement of administrative law judge travel expenses and video conferencing expenses attributable to hearings conducted on behalf of these entities. The contract rate must be based on a total-cost-recovery methodology.

Section 14. This act shall take effect July 1, 2009.

Approved by the Governor June 24, 2009.

Filed in Office Secretary of State June 24, 2009.

CHAPTER 2013-18

Senate Bill No. 994

Section 8. Subsections (6) and (8) of section 120.65, Florida Statutes, are amended to read:

120.65 Administrative law judges.—

~~(6) By rule, the division may establish:~~

~~(a) Further qualifications for administrative law judges and shall establish procedures by which candidates will be considered for employment or contract.~~

~~(b) The manner in which public notice will be given of vacancies in the staff of administrative law judges.~~

~~(c) Procedures for the assignment of administrative law judges.~~

~~(8) The division shall have the authority to adopt reasonable rules to carry out the provisions of this act.~~