

## **BILL ANALYSIS**

Senate Research Center  
76R7679 JRD-D

S.B. 757  
By: Duncan  
State Affairs  
3/15/1999  
As Filed

### **DIGEST**

Currently, the State Office of Administrative Hearings (office) conducts administrative hearings in certain contested cases. This bill would refine and clarify the purpose, function, duties, powers, and responsibilities of the office.

### **PURPOSE**

As proposed, S.B. 757 sets forth guidelines for the administration and operation of the State Office of Administrative Hearings.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 2003.021, Government Code, by amending Subsections (a) and (b) and adding Subsection (e), to provide the State Office of Administrative Hearings (office) is created to serve as an independent forum for the conduct of the adjudicative hearings in the executive branch of state government. Provides that the purpose of the office is to separate the adjudicative function from the investigative, prosecutorial, and policymaking functions in the executive branch relating to hearings the office is authorized to conduct. Requires the office to conduct administrative hearings and alternative dispute resolution procedures required under other law. Authorizes the office to conduct hearings or resolution procedures voluntarily referred to the office by a governmental entity, for a fee and under contract. Authorizes the office to adopt a seal for authentication purposes.

SECTION 2. Amends Section 2003.022, Government Code, by amending Subsections (a) and adding Subsections (c) and (d) to provide the chief administrative law judge is eligible for reappointment. Prohibits the chief administrative law judge from engaging in the practice of law while serving in office. Provides the chief administrative law judge serves a full-time position. Requires the chief administrative law judge to supervise the office, ensure the decisional independence of each administrative law judge, adopt a code of conduct for administrative law judges, and monitor the quality of hearings conducted by the office.

SECTION 3. Amends Section 2003.041, Government Code, by adding Subsection (c), to provide that. Provides an administrative law judge employed by the office is not responsible to any person or agency other than the chief administrative law judge or senior or master administrative law judge designated by the chief administrative law judge.

SECTION 4. Amends Chapter 2003C, Government Code, by adding Sections 2003.0411 and 2003.0412, as follows:

Sec. 2003.0411. SENIOR AND MASTER ADMINISTRATIVE LAW JUDGES. Authorizes the chief administrative law judge to appoint a senior administrative law judge who must have certain experience and meet other requirements as prescribed by the chief administrative law judge. Requires a master administrative law judge to have a certain level of experience.

Sec. 2003.0412. EX PARTE CONSULTATIONS. Provides that the provisions of Section 2001.061 apply in relation to a matter before the office regardless of the status of the case under

Chapter 2001. Provides that the provisions of Section 2001.061 do not apply to a matter before the office to the extent that the office is conducting an alternative dispute resolution procedure in relation to the matter.

SECTION 5. Amends Section 2003.045, Government Code, as follows:

Sec. 2003.045. New heading: OVERSIGHT OF ADMINISTRATIVE LAW JUDGES. Authorizes the chief administrative law judge to designate senior or master administrative law judges to oversee certain issues regarding administrative law judges, rather than an administrative division in the office overseeing all administrative law judges.

SECTION 6. Amends Section 2003.0451(a), Government Code, to authorize the office to provide training through the Texas Center for the Judiciary.

SECTION 7. Amends Section 2003.046, Government Code, to provide that a central hearings panel is composed of administrative law judges and senior or master administrative law judges assigned to the panel by the chief administrative law judge, rather than six senior or administrative law judges appointed by the chief administrative law judge. Authorizes the chief administrative law judge to create teams or divisions within the central panel, including an administrative license revocation division. Deletes a provision regarding the coordination and supervision of the operation of hearings conducted by the office under the direction of the chief administrative law judge.

SECTION 8. Amends Section 2003.048, Government Code, as follows:

Sec. 2003.048. New heading: TEXAS NATURAL RESOURCE CONSERVATION COMMISSION HEARINGS FEE. Provides that this section only applies to the extent that the legislature does not appropriate money directly to the office for services rendered by the office to the Texas Natural Resource Conservation Commission (commission). Requires the office to charge a fee that is consistent with a rider in the General Appropriations Act. Deletes a provision regarding the negotiation of the fixed fee.

SECTION 9. Amends Section 2003.049(1), to provide that this subsection applies only to the extent the legislature does not appropriate money to the office for services rendered by the utility division of the office to the commission. Deletes a provision regarding a biennial negotiation of a fixed fee. Makes a conforming change.

SECTION 10. Amends Chapter 2003C, Government Code, by adding Section 2003.051, as follows:

Sec. 2003.051. ROLE OF REFERRING AGENCY. Prohibits a state agency that refers a matter to the office for a hearing from taking any adjudicative action relating to the matter until the office has issued a proposal for a decision. Authorizes a state agency to exercise its advocacy rights in the matter before the office in the same manner as any other party.

SECTION 11. Emergency clause.

Effective date: upon passage.