
A BILL FOR AN ACT

RELATING TO THE OFFICE OF ADMINISTRATIVE ADJUDICATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that in most federal
2 agencies and in many state, territorial, and local
3 jurisdictions, administrative adjudications take place within
4 agencies that combine regulatory, enforcement, prosecutorial,
5 and adjudicatory authority in a single agency. The legislature
6 believes that this combination of functions creates a potential
7 conflict of interest. The legislature also believes that this
8 combination of functions may also compromise the integrity of
9 administrative adjudications and is often perceived as unfair by
10 the litigants opposing the agencies.

11 The legislature also finds that the conflict of interest
12 inherent in the same agency acting as both prosecutor and judge
13 has led to the establishment of state central hearing agencies,
14 also known as central panels. In central panels, an independent
15 administrative law judge presides over the administrative
16 litigation, and this judge is completely independent of the
17 agency prosecutorial functions. Approximately twenty-nine state



1 and local jurisdictions have addressed this conflict by creating
2 a central hearing agency.

3 The purpose of this Act is to have the department of the
4 attorney general, in conjunction with the department of commerce
5 and consumer affairs, department of health, and other affected
6 agencies, conduct a study relating to the establishment of a
7 centralized office of administrative adjudications in the
8 executive branch of state government and report to the
9 legislature prior to the convening of the regular session of
10 2022. The study and report shall be based on the guidelines
11 established by this Act.

12 SECTION 2. (a) The department of the attorney general, in
13 conjunction with the department of commerce and consumer
14 affairs, department of health, and other affected agencies,
15 shall conduct a study relating to the establishment of a state
16 central hearing agency to be known as the office of
17 administrative adjudications (office). The office shall operate
18 as an independent agency in the executive branch of state
19 government for the purpose of separating the adjudicatory
20 function from the investigatory, prosecutorial, and policy-
21 making functions of agencies in the executive branch.



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1 (b) The office shall not replace the hearings functions
2 of:

- 3 (1) Agencies in the political subdivisions of the State;
- 4 (2) An agency of the legislature;
- 5 (3) An agency of the judiciary;
- 6 (4) The office of the governor; or
- 7 (5) The office of the lieutenant governor.

8 SECTION 3. (a) The department of the attorney general's
9 study shall review the existing administrative hearings system
10 to:

- 11 (1) Identify the departments and agencies that conduct
12 hearings or delegate that authority to another agency;
- 13 (2) Determine and identify the placement of the hearings
14 agency in the department's organization;
- 15 (3) Identify and quantify the personnel and state
16 resources that are necessary to operate each hearings
17 agency;
- 18 (4) Identify and determine the types of issues and
19 subjects that are subject to the hearings
20 jurisdiction;



- 1 (5) Identify and determine the process to appeal a
2 decision of each agency's administrative hearing,
3 including chapter 91, Hawaii Revised Statutes, and
4 rights to and process for judicial appeals; and
5 (6) Identify potential legal conflicts and barriers that
6 affect each agency's administrative hearings
7 jurisdiction.

8 SECTION 4. The department of the attorney general shall
9 submit a report of:

- 10 (1) Findings and recommendation from studies conducted
11 pursuant to sections 2 and 3;
12 (2) The appropriateness, feasibility, and cost effects of
13 establishing and operating an office of administrative
14 adjudications; and
15 (3) Recommendations, including proposed legislation, to
16 establish and implement an office of administrative
17 adjudications.

18 The report shall be provided to the legislature no later
19 than twenty days prior to the convening of the regular session
20 of 2022.



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1 SECTION 5. This Act shall take effect on July 1, 2021.

2

INTRODUCED BY:  _____

JAN 25 2021



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Report Title:

Office of Administrative Adjudications; Department of the Attorney General; Report

Description:

Requires the department of the attorney general to study and submit a report to the legislature on the feasibility and cost effect of establishing an office of administrative adjudications that conducts administrative hearings for the State's executive branch agencies.

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