



**DOAH ANNUAL REPORTS
(ALL-IN-ONE)**

7/1/2002 through 6/30/2022

{LAST UPDATED: 9/12/2023}

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#: 30

PERIOD: *July 1, 2002 - June 30, 2003*

DATE: February 1, 2004

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Robert S. Cohen, Chief Judge

PAGES: 30

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2003



DIVISION OF ADMINISTRATIVE HEARINGS



February 1, 2004

THIRTIETH ANNUAL REPORT

Division of Administrative Hearings
Thirtieth Annual Report

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This report is submitted to the Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of Section 120.65(10), Florida Statutes, which provides:

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.

GENERAL

The Division of Administrative Hearings administers two programs. One, which is the subject of this report, is the Adjudication of Disputes program that operates pursuant to Chapter 120, Florida Statutes. The other is the Workers' Compensation Appeals program, Office of Judges of Compensation Claims (OJCC), that operates pursuant to Chapter 440, Florida Statutes. Section 440.45(5), Florida Statutes, requires the OJCC to issue an annual report to the Governor, the House of Representatives, the Senate, the Florida Bar, and the statewide nominating commission. This report was submitted on December 4, 2003. Accordingly, the present report will focus primarily on

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the Adjudication of Disputes program. However, because the headquarters element of the Division must support both programs, this report necessarily must include some information addressing the OJCC.

UTILIZATION RATES

Appendix I breaks out by agency the utilization rates of Division resources and demonstrates, in descending order, that 12 agencies utilized 95 percent of the Division's docket: the Agency for Health Care Administration, the Department of Management Services, the Department of Health, the Department of Financial Services, the Department of Education, the Department of Business and Professional Regulation, the Department of Children and Family Services, the Department of Environmental Protection, the Department of Community Affairs, the Department of Revenue, the Department of Transportation, and the Department of Highway Safety and Motor Vehicles. Additionally, contract agencies such as water management districts, cities, and counties have become continuing users of the Division's services and are reported separately since they are covered by contractual agreements. School districts and other educational entities are also continuing users and are reported separately as well.

The analysis of agency requests for Administrative Law Judges will be reported by fiscal year instead of calendar year,

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as has been detailed in prior annual reports. During FY 2002-03, State agencies and governmental entities referred 4,305 requests for assignment of Administrative Law Judges compared to 4,538 requests filed the previous fiscal year. Although there was a slight decrease in the number of cases filed, we are currently experiencing an upward trend: approximately 2,400 new cases have been filed during the first half of FY 2003-04. The Department of Environmental Protection's new case referrals increased 40 percent, from 88 cases filed in FY 2001-02 to 123 cases filed in FY 2002-03. Referrals from the Department of Education increased by 89 percent, from 140 cases filed in FY 2001-02 to 265 cases filed in FY 2002-03. Significant to this increase was the number of cases filed by the Education Practices Commission and the Division of Vocational Rehabilitation Services, which increased by 104 percent and 65 percent, respectively. School Board requests for hearings involving placement issues of Exceptional Education students increased as well, at 15 percent when 315 cases were filed in FY 2002-03, compared to 275 cases filed the previous year. These are expedited cases in which the Division issues final orders. Notable filings by the Department of Revenue include the administrative establishment of child support obligation cases, a successful program that was initiated as a pilot in Volusia County on July 1, 2001. This

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program was expanded statewide in 2002, pursuant to Chapter No. 2002-239, Laws of Florida. Forty-eight new cases were assigned in FY 2002-03 compared with 38 new cases filed the prior fiscal year. This caseload continues to grow, with 66 child support cases filed during the first half of FY 2003-04.

UTILIZATION OF PERSONNEL

The Adjudication of Disputes program has 78 established positions comprised of the Director and Chief Judge, the Deputy Chief Judge, 35 Administrative Law Judges, seven Administrative Secretaries, four Administrative Assistants, one Budget Officer, one Executive Assistant, three Staff Assistants, three Court Reporters (see page 6), one Administrative Services Director, one Personnel Officer, one Purchasing Agent, one Accountant, one Storekeeper, one Data Base Administrator, one Office Automation Specialist, one Distributed Computer Systems Specialist, one Secretary Specialist, one Division Clerk, two Deputy Clerk Supervisors, three Deputy Clerks, one Fiscal Assistant, one Clerk Specialist, and five Clerks.

The Workers' Compensation Appeals program has 197 established positions comprised of one Deputy Chief Judge of Compensation Claims, 31 Judges of Compensation Claims, 31 General Masters (mediators), 31 Executive Secretaries, 31 Deputy Clerks in field offices, two Deputy Clerk Supervisors, six Deputy Clerk IIs and five Deputy Clerks in the Clerk's Office,

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three Administrative Assistants, two Staff Assistants, 34 Administrative Secretaries, nine Secretary Specialists, three Senior Clerks, one Senior Management Analyst, one Operations Management Consultant, two Accountants, one Distributed Computer Systems Administrator, two Distributed Computer Systems Analysts, and one Attorney.

IN-HOUSE COURT REPORTERS

The Division employed three full-time court reporters in an In-House Court Reporting Program. This Program provided court reporters to state agencies for hearings held in Tallahassee. Appendix 2 indicates that these reporters produced a total of 22,183 pages of transcription for FY 2002-03 and generated revenue in excess of \$29,374.95.

After an in-depth review and analysis of the cost, it was determined that the cost of the program, over both the short-run and the long-run, exceeded the benefits. Accordingly, the In-House Court Reporter Program was terminated effective January 1, 2004. The three positions will be eliminated along with the corresponding expense in the Division's legislative budget request for FY 2004-05.

HEARING REQUESTS

During FY 2002-03, the Division processed 4,305 hearing requests compared to 4,538 cases filed the previous fiscal year. Of the total cases filed, 1,236 were Baker Act cases. The

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remaining 3,069 cases were filed pursuant to Sections 120.56, 120.569, and 120.57(1), Florida Statutes. The cases opened are itemized by agency in the attached Appendix 3.

Significant to the overall referral decrease were Baker Act cases, where a patient's continued involuntary confinement in a mental institution is at issue. In FY 2002-03, there were only 1,236 Baker Act cases referred compared to 1,350 cases referred the previous fiscal year, a decrease of 114 cases or eight percent. Significant decreases in other agency referrals have not been noted here but are contained in Appendix 3.

In FY 2002-03, each Administrative Law Judge conducted an average of 72 hearings and wrote an average of 65 recommended or final orders of varying length and complexity. In addition, each Judge closed an average of 131 cases.

OFFICE AUTOMATION

The Division maintains two mission-critical databases and applications: the DOAH Case Management System (CMS) and the OJCC Case Management System (JCC). Associated applications include full-text retrieval and document indexing of orders issued by the Division's Administrative Law Judges. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.jcc.state.fl.us. Secondary applications include word processing, electronic mail and on-line legal research via Westlaw and other Internet resources.

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In 2003, the Division began accepting electronic filing of pleadings from a small test group for both the Adjudication of Disputes program and the Workers' Compensation Appeals program. The availability of electronic filing will be expanded in the immediate future.

OPERATING BUDGET

The Division is 100 percent trust funded. Appendix 4 summarizes the actual, estimated, and requested expenditures for the Division's programs for FY 2002-03, FY 2003-04, and FY 2004-05, respectively.

For the Adjudication of Disputes program, each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours scheduled by all agencies. Based on this data, the Division's budget is prorated among the agencies utilizing its services, and the Legislature appropriates fund transfers to the Division from those agencies. Hence, the amount each agency transfers to the Division is based on the number of hours it schedules for pre-hearing conferences, motion hearings, final hearings, and cancelled hearings in a given year. Beginning in FY 2003-04, data on cancelled and continued hearings will be excluded from the report and the agency transfer calculations under the theory that the agencies should not be penalized for encouraging the resolution of disputes short of proceeding to hearing. In September 2003, the

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Division submitted its seventeenth report (see Appendix 1). In FY 2002-03, 34,908 hearing hours were scheduled with the Division.

The Division is also authorized to enter into contracts with cities, counties, regional planning councils, water management districts, and other organizations for the provision of Administrative Law Judge services. These organizations, as well as school districts and other educational entities, reimburse the Division for the costs of these services at the current contract rate and in accordance with applicable laws. The Division is actively seeking additional contracts with counties, municipalities, and quasi-governmental entities in order to lessen the burden of funding the Division on state agencies.

The Workers' Compensation Appeals program is supported by cash transfers from the Workers' Compensation Administration Trust Fund that is administered by the Department of Financial Services.

RECOMMENDATIONS CONCERNING THE A.P.A.

The Division closely follows judicial decisions concerning the application and interpretation of the Administrative Procedure Act. The Division clearly recognizes that it must remain fair and impartial in all matters affecting the agencies and private parties that come before it for adjudication of

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their disputes. However, pursuant to its statutory mandate in Section 120.65(10)(b), Florida Statutes, the Division is required to make recommendations for changes or improvements in the APA "or any agency's practice or policy with respect thereto." Accordingly, the Division presents the following issue concerning the late filing of requests for administrative hearings as part of this Annual Report.

Two District Courts of Appeal have specifically requested that the Legislature consider whether to make the doctrine of excusable neglect applicable to administrative proceedings once again. Prior to 1998, an untimely request for an administrative hearing was granted if the request was filed late due to excusable neglect. In 1998, Section 120.569(2)(c), Florida Statutes, was amended to provide that "A petition [request for hearing] must be dismissed if. . . it has been untimely filed."

Both before and after the 1998 statutory amendment, Florida Administrative Code Rule 28-106.111(2) and (4), has provided that a person shall file a petition for hearing within 21 days of receipt of written notice of the agency's decision and that a failure to request a hearing within 21 days constitutes a waiver of the right to a hearing.

In Cann v. Department of Children and Family Services, 813 So. 2d 237 (Fla. 2d DCA 2002), the court held that the 1998 amendment to Section 120.569(2)(c), Florida Statutes, when

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considered in conjunction with Florida Administrative Code Rule 28-106.111, overruled two prior cases which had found that the delays in timely requesting hearings in those cases were caused by excusable neglect and did not constitute waivers of the right to a hearing. The court held that the Canns were not entitled to a hearing on the Department's refusal to renew their license for a medical foster home since the Department received their request for a hearing one day past the deadline allowed under the Rule.

The Cann court, however, strongly expressed its belief that "[i]n administrative matters affecting substantial interests, adopting an excusable neglect standard or a time schedule based on the date of service of requests for hearing [rather than a filing date] would promote legitimate public policies." Id. at 239. The court further noted that in judicial proceedings a default can be set aside because of excusable neglect, a meritorious defense, and due diligence in seeking relief. The court acknowledged that such a doctrine promotes the public policy of having disputes decided on their merits rather than on procedural technicalities.

In Patz v. Department of Health, Case No. 3D03-1154, 2003 WL 23008852 (Fla. 3d DCA Dec. 24, 2003), the court, relying on the 1998 amendment to Section 120.569(2)(c), on Rule 28-106.111, and on the decision in Cann, affirmed the Board of Medicine's

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discipline of a doctor whose request for hearing was filed 43 days late. The Third District Court of Appeal, like the Second District had in Cann, called upon the Legislature to allow the doctrine of excusable neglect to be applied in administrative proceedings as it is in judicial proceedings.

By contrast, prior cases have held that the late filing of a request for an administrative hearing is not a jurisdictional defect and that the doctrine of equitable tolling can be applied to extend the administrative time limit when the petitioner has been misled or lulled into inaction, has in some extraordinary way been prevented from asserting his rights, or has timely asserted his rights mistakenly in the wrong forum. Machules v. Department of Administration, 523 So. 2d 1132 (Fla. 1988); Appel v. Florida Department of State, Division of Licensing, 734 So. 2d 1180 (Fla. 2d DCA 1999). Neither the Cann court nor the Patz court questioned the continued viability of the doctrine of equitable tolling.

Under current law, therefore, filing an untimely request for an administrative hearing is not a jurisdictional defect. One of the two prior doctrines, equitable tolling, is still available to explain and overcome a determination that a waiver of the right to a hearing has occurred; the other prior doctrine, excusable neglect, is no longer available according to the Second and Third District Courts of Appeal. See also

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Whiting v. Florida Department of Law Enforcement, 849 So. 2d 1149 (Fla. 5th DCA 2003), wherein the filing of a request for hearing one day late due to a problem with the Department's fax machine was analyzed only under the doctrine of equitable tolling and not under the doctrine of excusable neglect. Similarly, the dissent by Judge Orfinger in O'Donnell's Corporation v. Ambroise, 858 So. 2d 1138 (Fla. 5th DCA 2003), expressed at least that Judge's view that excusable neglect is no longer available in administrative proceedings.

It is recommended that the Legislature consider whether the doctrine of excusable neglect, available in judicial proceedings, be made available once again in administrative proceedings.

CONCLUSION

The Division continues to supply high-quality adjudication of disputes pursuant to Chapter 120, the Administrative Procedure Act. The Division constantly seeks ways to make the process more affordable to state agencies, and citizens and continues to expand its base to counties, cities and other users of its program in order to reduce the cost of providing services. Through the elimination of programs that prove not to be cost effective and promoting alternative dispute resolution

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short of hearing, the Division contributes to the goal of efficient government. We accomplish this without sacrificing quality and fairness in the Adjudication of Disputes program.

Respectfully submitted,

ROBERT S. COHEN
Director and Chief Judge

RSC/cdl

06/30/2003

Appendix 1

HEARING HOURS SCHEDULED REPORT
FY 2002-2003
For the Period 07/01/02 through 06/30/03

<u>AGENCY</u>	<u>PREHEARING CONFERENCE</u>	<u>MOTION HEARING</u>	<u>CANCELLED/ CONTINUED HEARING</u>	<u>FINAL HEARING</u>	<u>TOTAL HOURS</u>	<u>% OF TOTAL HOURS</u>	<u>PRORATED AMOUNT OF ADJUSTED* FY 2004-05 LBR</u>
AFICA	7.25	43.50	6,148.00	1,551.75	7,750.50	26.15011%	\$2,019,738
AGR	0.50	1.50	361.00	107.00	470.00	1.58578%	\$122,479
DBPR	3.50	26.50	2,008.00	276.50	2,314.50	7.80910%	\$603,146
DCF	4.00	10.00	1,288.00	436.25	1,738.25	5.86484%	\$452,979
CIT	0.00	0.25	40.00	4.50	44.75	0.15099%	\$11,662
DCA	3.00	13.75	735.00	214.50	966.25	3.26012%	\$251,800
COR	0.00	2.75	54.00	6.50	63.25	0.21340%	\$16,483
DOE	1.75	34.00	2,478.00	302.00	2,815.75	9.50031%	\$733,769
ELDER	0.00	0.00	16.00	0.00	16.00	0.05398%	\$4,170
DEP	5.50	17.00	886.00	271.00	1,179.50	3.97962%	\$307,371
ETH	0.00	20.00	144.00	63.50	227.50	0.76758%	\$59,285
FWCC	0.00	0.00	16.00	0.00	16.00	0.05398%	\$4,170
GOV	0.00	7.00	64.00	32.00	103.00	0.34752%	\$26,841
DOH	5.25	32.75	2,525.00	576.50	3,139.50	10.59264%	\$818,137
HSM	1.50	6.75	577.00	7.75	593.00	2.00078%	\$154,533
DFS	5.75	19.50	2,504.00	294.50	2,823.75	9.52730%	\$735,854
JUV	0.25	1.00	81.00	34.00	116.25	0.39223%	\$30,294
DLE	1.50	2.00	203.00	33.50	240.00	0.80976%	\$62,543
DLA	0.00	(32.00)	120.00	22.25	110.25	0.37198%	\$28,731
LOT	0.00	0.00	8.00	3.50	11.50	0.03880%	\$2,997
DMS	7.25	35.75	2,613.00	625.25	3,281.25	11.07090%	\$855,076
PSC	0.00	0.00	3.00	0.00	3.00	0.01012%	\$782
REV	0.75	6.00	722.00	67.00	795.75	2.68485%	\$207,368
DOS	0.00	0.00	48.00	8.00	56.00	0.18894%	\$14,593
DOT	1.50	9.00	711.00	41.50	763.00	2.57435%	\$198,834
VET	0.00	0.00	0.00	0.00	0.00	0.00000%	\$0
TOTAL	49.25	257.00	24,353.00	4,979.25	29,638.50	100.00000%	\$7,723,635

NOTES: Hearing hours scheduled in contract cases (water management districts, regional planning councils, cities, counties, etc.) NICA cases, school district/educational entity cases, and other miscellaneous cases are reported separately.

*Prior to prorating among state agencies, DOAH's FY 2004-05 Legislative Budget Request totaling \$8,665,186 was adjusted to reflect estimated revenue of \$506,120 from non-state entities, and payment of \$435,431 from the Workers' Compensation Appeals Program for general management and administrative services costs.

06/30/03

Appendix 1

HEARING HOURS SCHEDULED BY CONTRACT/EDUCATIONAL/OTHER AGENCIES
FY 2002-2003

For the Period 07/01/02 through 06/30/03

<u>AGENCY</u>	<u>PREHEARING CONFERENCE</u>	<u>MOTION HEARING</u>	<u>CANCELLED/ CONTINUED HEARING</u>	<u>FINAL HEARING</u>	<u>TOTAL HOURS</u>	<u>% OF HOURS ALL AGENCIES</u>
CONTRACT	3.00	22.00	822.00	300.25	1,147.25	3.28650%
EPP	0.00	0.00	0.00	11.00	11.00	0.03151%
TL	0.00	0.00	0.00	0.00	0.00	0.00000%
NICA	4.50	9.50	142.00	101.75	257.75	0.73837%
OTHER	0.00	0.00	44.00	4.50	48.50	0.13894%
SCHBDS	33.50	83.75	2,832.00	855.75	3,805.00	10.90008%
TOTAL	41.00	115.25	3,840.00	1,273.25	5,269.50	15.09539%

CONTRACT: Water Management Districts, Regional Planning Councils, Cities, Counties, etc.

EPP: Cases filed by DEP, pursuant to Chapter 403, Florida Statutes

TL: Transmission Line siting cases filed by DEP, pursuant to Chapter 403, Florida Statutes

NICA: Florida Birth-Related Neurological Injury Compensation Association

OTHER: Noncontract entities such as Pinellas County Construction Licensing Board

SCHBDS: School boards and other educational entities specified in the 2002-2003 General Appropriations Act

COST AVOIDANCE TO STATE AGENCIES
For the Period 7/01/02 through 06/30/03

	Total Pages Transcribed	Total Expedited Pages	Regular Pages	24-hour pages	72-hour pages	\$3.10/PG	\$7.50/PG 24 hours	\$5.00/PG 72 hours	Appearance Fee	Misc Charges	Total Cost Avoidance
AHCA	10110		10110			\$28,016.50			\$10,360.00		\$38,376.50
AGR	453		453			\$1,483.40			\$490.00		\$1,973.40
CIT	66		66			\$204.60			\$70.00		\$274.60
DBPR	682		682			\$1,854.40			\$720.00		\$2,574.40
DCF	102		0			\$0.00			\$110.00		\$110.00
DCA											
COR											
DOE	1063		1063			\$3,180.60			\$160.00		\$3,340.60
DEP	1718		1718			\$4,690.00			\$1,780.00		\$6,470.00
ETH	1560		1560			\$4,728.05			\$1,370.00		\$6,098.05
FWCC											
GOV											
DOH	1308		1206			\$2,810.40			\$1,170.00		\$3,980.40
HSM	10		0						\$70.00		\$70.00
DFS	784		736			\$2,095.45			\$810.00		\$2,905.45
JCC	262		262			\$736.55			\$420.00		\$1,156.55
JUV											
DLE											
DLA	94		94			\$291.40			\$100.00		\$391.40
LOT											
DMS	1941		359			\$1,050.90			\$2,090.00		\$3,140.90
PSC											
REV	265		142			\$420.65			\$370.00		\$790.65
DOS											
DOT											
VET											
SchBds	1765		1765			\$5,367.90			\$1,480.00		\$6,847.90
Total	22183	0		0	0		\$0.00	0	\$21,570.00	\$0.00	\$78,500.80

ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2002

Appendix 3

AGENCY	Jan-June	Jul-Dec	TOTAL
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	14	10	24
Produce disputes	1	1	2
Citrus	6	3	9
Agency Total	21	14	35
Department of Children and Family Services			
Department of Children and Family Services	50	29	79
Developmental Services	36	21	57
Exemption 435.07, position of special trust	0	11	11
Office of Licensure and Certification	34	27	61
Non-Baker Act Total	120	88	208
Contract Hearings			
Contract Hearings	2	4	6
City of Clearwater	0	1	1
City of Cape Coral	1	0	1
County of Hillsborough	1	2	3
County of Leon	1	2	3
County of Monroe	3	2	5
County of Pinellas	3	2	5
City of Tallahassee	0	4	4
Escambia County Utilities Authority	0	1	1
Pinellas County Sheriff's Civil Service Board	1	1	2
Agency Total	12	19	31
Department of Citrus			
Department of Citrus	0	3	3
Agency Total	0	3	3
Department of Corrections			
Department of Corrections	4	4	8
Agency Total	4	4	8
County School Boards			
County School Boards	0	1	1
Alachua County School Board	3	4	7
Bay County School Board	3	1	4
Brevard County School Board	2	0	2
Broward County School Board	5	33	38
Charlotte County School Board	1	0	1
Citrus County School Board	1	0	1
Clay County School Board	0	1	1
Collier County School Board	1	3	4
Miami-Dade County School Board	53	35	88
Duval County School Board	4	9	13
Escambia County School Board	1	0	1
Gilchrist County School Board	1	0	1
Highlands County School Board	2	2	4
Hillsborough County School Board	3	3	6
Indian River County School Board	1	1	2
Jackson County School Board	1	1	2
Lake County School Board	1	0	1
Lee County School Board	3	4	7
Leon County School Board	4	2	6

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2002

Appendix 3

AGENCY	Jan-June	Jul-Dec	TOTAL
Marion County School Board	3	1	4
Martin County School Board	1	1	2
Nassau County School Board	0	1	1
Okaloosa County School Board	1	0	1
Orange County School Board	7	8	15
Osceola County School Board	1	0	1
Palm Beach County School Board	19	8	27
Pasco County School Board	1	2	3
Pinellas County School Board	9	7	16
Polk County School Board	1	1	2
Putnam County School Board	1	0	1
St Johns County School Board	3	0	3
St Lucie County School Board	6	0	6
Sarasota County School Board	4	0	4
Seminole County School Board	7	8	15
Volusia County School Board	4	1	5
Walton County School Board	0	1	1
Agency Total	158	139	297
Department of Banking and Finance			
Department of Banking and Finance	19	23	42
Division of Investigations	1	2	3
Board of Funeral and Cemetery Services	1	0	1
Division of Securities and Finance	2	3	5
Agency Total	23	28	51
Department of Community Affairs			
Department of Community Affairs	27	20	47
Florida Housing Finance Corporation	1	5	6
Small Scale Comp Plan Amendment	5	3	8
Agency Total	33	28	61
Department of Elder Affairs			
Department of Elder Affairs	1	1	2
Agency Total	1	1	2
Department of Environmental Protection			
Department of Environmental Protection	37	78	115
Agency Total	37	78	115
Department of Health			
Department of Health	41	14	55
Board of Acupuncture	2	0	2
Board of Chiropractic	0	3	3
Board of Clinical Social Work, Marriage and Family	1	0	1
Board of Dentistry	2	1	3
Environmental Health	7	3	10
Board of Hearing Aid Specialists	8	0	8
Board of Medicine	50	24	74
Board of Massage	4	1	5
Midwifery Council	1	0	1
Board of Nursing Home Administrators	1	0	1
Board of Nursing	39	16	55
Board of Optometry	3	0	3
Board of Osteopathic Medicine	3	4	7

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2002

AGENCY	Jan-June	Jul-Dec	TOTAL
Board of Pharmacy	5	13	18
MQA/Board of Psychology	3	1	4
MQA/Board of Physical Therapy Practice	0	4	4
MQA/Board of Speech-Language Pathology, and Audiol	1	0	1
Vital Statistics	1	0	1
Agency Total	172	84	256
Department of Juvenile Justice			
Department of Juvenile Justice	3	16	19
Agency Total	3	16	19
Department of Legal Affairs			
Florida Elections Commission	4	8	12
Agency Total	4	8	12
Department of Law Enforcement			
Department of Law Enforcement	0	2	2
Criminal Justice Standards and Training	12	7	19
Agency Total	12	9	21
Department of Management Services			
Department of Management Services	1	1	2
Florida Commission on Human Relations	102	119	221
Convicted Vendor List	0	1	1
Division of State Group Insurance	3	7	10
Minority Business Enterprise	3	0	3
Division of Retirement	12	6	18
Agency Total	121	134	255
Department of Education			
Department of Education	2	0	2
Division of Blind Services	1	0	1
Education Practices Commission	63	73	136
Vocational Rehabilitation Services	27	38	65
Agency Total	93	111	204
Department of Lottery			
Department of Lottery	1	1	2
Agency Total	1	1	2
Department of State			
Division of Licensing	4	1	5
Agency Total	4	1	5
Department of Transportation			
Department of Transportation	24	33	57
High Speed Rail Transportation	0	2	2
Agency Total	24	35	59
Department of Business and Professional Regulation			
Department of Business and Professional Regulation	14	28	42
Board of Accountancy	3	0	3
Board of Architecture	0	1	1
Building Code Administrators and Inspectors	0	1	1

ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2002

Appendix 3

AGENCY	Jan-June	Jul-Dec	TOTAL
Construction Industry Licensing Board	25	43	68
Division of Alcoholic Beverages and Tobacco	28	59	87
Division of Real Estate	16	27	43
Florida Real Estate Commission	2	1	3
Board of Funeral Directors and Embalmers	0	17	17
Division of Hotels and Restaurants	27	24	51
Division of Land Sales, Condominiums, and Mobile H	5	1	6
Division of Pari-Mutuel Wagering	3	4	7
Board of Professional Engineers	10	8	18
Board of Veterinary Medicine	3	6	9
Agency Total	136	220	356
Ethics Commission			
Ethics Commission	6	6	12
Agency Total	6	6	12
Florida Keys Aqueduct Authority			
Florida Keys Aqueduct Authority	1	0	1
Agency Total	1	0	1
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	1	1	2
Agency Total	1	1	2
Office of the Governor			
Administration Commission	1	0	1
Florida Land and Water Adjudicatory Commission	6	2	8
Agency Total	7	2	9
Agency for Health Care Administration			
Agency for Health Care Administration	66	168	234
Office of Certificate of Need	50	42	92
Medicaid Program Integrity	239	54	293
Office of Licensure and Certification	84	20	104
Agency Total	439	284	723
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	5	5	10
Section 320.642	15	15	30
Agency Total	20	20	40
Department of Insurance			
Department of Insurance	70	62	132
Neurological Injury Compensation Association	14	21	35
Workers' Compensation	0	10	10
Agency Total	84	93	177
Department of Labor and Employment Security			
INS/WC as of 7-1-02	7	0	7
Agency Total	7	0	7
Medical Arbitration			
Medical Arbitration	8	11	19
Agency Total	8	11	19

1/30/03

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2002

Appendix 3

AGENCY	Jan-June	Jul-Dec	TOTAL
Not an Agency	1	0	1
Not an Agency	1	0	1
Agency Total			
Pinellas County Construction Licensing Board	1	0	1
Pinellas County Construction Licensing Board	1	0	1
Agency Total			
Department of Revenue	65	28	93
Department of Revenue	21	23	44
Child Support Enforcement Program	86	51	137
Agency Total			
Universities, Colleges, and Schools	1	0	1
Florida A & M University	0	1	1
Santa Fe Community College	0	1	1
Valencia Community College	1	2	3
Agency Total			
Water Management Districts	8	4	12
South Florida Water Management District	5	4	9
St. Johns River Water Management District	1	0	1
Suwannee River Water Management District	14	6	20
Southwest Florida Water Management District	28	14	42
Agency Total			
NON BAKER ACT TOTAL	1,669	1,505	3,174
Baker Acts	126	91	217
Atlantic Shores Healthcare, Inc.	4	6	10
Correctional Mental Health Institute, Zephyrhills	78	91	169
Florida State Hospital	6	0	6
G. Pierce Woods Memorial Hospital	201	151	352
Northeast Florida State Hospital	3	2	5
Peace River Center	2	1	3
Personal Enrichment Mental Health Services	15	13	28
West Florida Community Care Center	0	1	1
Wuesthoff Hospital Behavioral Health Unit	435	356	791
Baker Act Total			

1/26/2004

Appendix 3

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Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2003

AGENCY	Jan-June	Jul-Dec	TOTAL
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	1	1	2
Produce disputes	2	10	12
Bureau of Compliance and Monitoring	1	0	1
Office of Citrus Licensing and Bond	3	3	6
Division of Consumer Services	3	1	4
Division of Food and Safety	5	2	7
Division of Licensing	5	1	6
Agency Total	20	18	38
Agency for Workforce Innovation			
Agency for Workforce Innovation	1	0	1
Agency Total	1	0	1
Department of Children and Family Services			
Department of Children and Family Services	10	28	38
Developmental Services	5	0	5
Exemption 435.07, position of special trust	21	22	43
Office of Licensure and Certification	42	40	82
Non-Baker Act Total	78	90	168
Contract Hearings			
City of Clearwater	1	1	2
Clay County	1	0	1
City of Tallahassee	4	5	9
Hillsborough County	1	0	1
Jacksonville Environmental Protection Agency	2	0	2
Miami-Dade County	1	0	1
Monroe County	6	3	9
Pinellas County Sheriff's Civil Service Board	2	1	3
Pinellas County	2	0	2
Pinellas Planning Council	1	0	1
Tampa Bay Water, a Regional Water Supply Authority	0	1	1
Agency Total	21	11	32
Department of Citrus			
Department of Citrus	1	0	1
Agency Total	1	0	1
Department of Corrections			
Department of Corrections	1	2	3
Agency Total	1	2	3
County School Boards			
Alachua County School Board	1	1	2
Bay County School Board	0	1	1
Bradford County School Board	0	1	1
Brevard County School Board	3	2	5
Broward County School Board	38	14	52
Clay County School Board	4	2	6
Collier County School Board	0	2	2
Columbia County School Board	1	0	1
Miami-Dade County School Board	34	33	67
Duval County School Board	6	1	7

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2003

AGENCY	Jan-June	Jul-Dec	TOTAL
Escambia County School Board	0	4	4
Flagler County School Board	0	1	1
Gadsden County School Board	1	0	1
Hernando County School Board	4	1	5
Highlands County School Board	11	8	19
Hillsborough County School Board	8	5	13
Lake County School Board	0	2	2
Lee County School Board	7	1	8
Leon County School Board	2	3	5
Levy County School Board	0	1	1
Marion County School Board	0	2	2
Martin County School Board	0	2	2
Monroe County School Board	1	0	1
Nassau County School Board	1	0	1
Okaloosa County School Board	0	1	1
Orange County School Board	10	7	17
Osceola County School Board	1	1	2
Palm Beach County School Board	20	18	38
Pasco County School Board	2	0	2
Pinellas County School Board	6	2	8
Polk County School Board	1	2	3
Putnam County School Board	0	1	1
St Johns County School Board	2	0	2
St Lucie County School Board	1	1	2
Santa Rosa County School Board	0	2	2
Sarasota County School Board	5	0	5
Seminole County School Board	3	5	8
Taylor County School Board	0	1	1
Volusia County School Board	3	1	4
Agency Total	176	129	305
Division of Administrative Hearings			
Division of Administrative Hearings	0	1	1
Agency Total	0	1	1
Department of Banking and Finance			
Division of Investigations	1	0	1
Agency Total	1	0	1
Department of Community Affairs			
Department of Community Affairs	24	24	48
Florida Building Commission	2	1	3
Florida Housing Finance Corporation	1	8	9
Small Scale Comprehensive Plan Amendment	4	3	7
Agency Total	31	36	67
Department of Environmental Protection			
Department of Environmental Protection	44	123	167
Natural Gas Transmission Line	1	0	1
Agency Total	45	123	168
Department of Financial Services			
Department of Financial Services	73	85	158
Division of State Fire Marshal	0	4	4

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2003

AGENCY	Jan-June	Jul-Dec	TOTAL
Financial Services Commission	9	8	17
Neurological Injury	21	24	45
Rate, automobile, casualty disputes	5	1	6
Division of Workers' Compensation	13	20	33
Agency Total	121	142	263
Department of Health			
Department of Health	5	24	29
Board of Acupuncture	0	1	1
Board of Chiropractic	2	0	2
Board of Dentistry	5	2	7
Environmental Health	1	7	8
Board of Hearing Aid Specialists	6	3	9
Board of Medicine	29	17	46
Board of Massage Therapy	3	3	6
Board of Nursing	13	9	22
Board of Orthotists and Prosthetists	0	1	1
Bureau of Radiation Control	0	5	5
Board of Opticianry	1	1	2
Board of Optometry	2	0	2
Board of Osteopathic Medicine	3	0	3
Board of Pharmacy	4	16	20
Board of Podiatric Medicine	0	1	1
MQA/Board of Physical Therapy Practice	0	5	5
MQA/Board of Respiratory Therapy	3	1	4
Agency Total	77	96	173
Department of Juvenile Justice			
Department of Juvenile Justice	6	7	13
Agency Total	6	7	13
Department of Legal Affairs			
Florida Elections Commission	4	6	10
Agency Total	4	6	10
Department of Law Enforcement			
Department of Law Enforcement	1	0	1
Criminal Justice Standards and Training Commission	41	32	73
Agency Total	42	32	74
Department of Military Affairs			
State Procurement Office	1	0	1
Agency Total	1	0	1
Department of Management Services			
Department of Management Services	1	4	5
Florida Commission on Human Relations	104	132	236
Division of State Group Insurance	2	6	8
Division of Retirement	13	11	24
Agency Total	120	153	273
Department of Education			
Department of Education	1	8	9
Division of Blind Services	0	2	2

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2003

AGENCY	Jan-June	Jul-Dec	TOTAL
Commission for Independent Education	5	0	5
Confidential Vocational Rehabilitation Cases	4	14	18
Education Practices Commission	100	49	149
Vocational Rehabilitation Services	44	18	62
Agency Total	154	91	245
Department of State			
Department of State	0	1	1
Agency Total	0	1	1
Department of Transportation			
Department of Transportation	12	24	36
Agency Total	12	24	36
Department of Business and Professional Regulation			
Department of Business and Professional Regulation	9	11	20
Board of Architecture	11	13	24
Building Code Administrators and Inspectors	0	1	1
Regulatory Council of Community Association Manage	0	1	1
Construction Industry Licensing Board	35	27	62
Board of Cosmetology	1	1	2
Division of Alcoholic Beverages and Tobacco	35	15	50
Division of Real Estate	42	31	73
Electrical Contractors	1	1	2
Bureau of Education and Testing	0	1	1
Board of Funeral Directors and Embalmers	11	0	11
Division of Hotels and Restaurants	8	11	19
Board of Professional Surveyors and Mappers	1	0	1
Division of Land Sales, Condominiums, and Mobile H	1	3	4
Board of Pilot Commissioners	1	0	1
Division of Pari-Mutuel Wagering	7	0	7
Board of Professional Engineers	10	7	17
Board of Talent Agencies	2	20	22
Board of Veterinary Medicine	1	0	1
Agency Total	176	143	319
Department of Veterans Affairs			
Department of Veterans Affairs	1	0	1
Agency Total	1	0	1
Ethics Commision			
Ethics Commision	4	7	11
Agency Total	4	7	11
Florida Keys Aqueduct Authority			
Florida Keys Aqueduct Authority	1	0	1
Agency Total	1	0	1
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	1	0	1
Agency Total	1	0	1
Office of the Governor			
Florida Land and Water Adjudicatory Commission	6	8	14

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2003

AGENCY	Jan-June	Jul-Dec	TOTAL
Agency Total	6	8	14
Agency for Health Care Administration			
Agency for Health Care Administration	85	16	101
Bureau of Managed Care	4	1	5
Office of Certificate of Need	29	39	68
Medicaid Cost Reimbursement	1	0	1
Medicaid Program Integrity	74	78	152
Office of Licensure and Certification	55	104	159
Public Medical Assistance Trust Fund	51	29	80
Agency Total	299	267	566
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	8	8	16
Section 320.642	34	30	64
Agency Total	42	38	80
Department of Insurance			
Department of Insurance	3	0	3
Agency Total	3	0	3
Medical Arbitration			
Medical Arbitration	4	12	16
Agency Total	4	12	16
Pinellas County Construction Licensing Board			
Pinellas County Construction Licensing Board	1	0	1
Agency Total	1	0	1
Peace River/Manasota Regional Water Supply Authority			
Peace River/Manasota Regional Water Supply Authority	1	0	1
Agency Total	1	0	1
Public Service Commission			
Public Service Commission	1	1	2
Agency Total	1	1	2
Department of Revenue			
Department of Revenue	48	47	95
Child Support Enforcement Program	25	66	91
Agency Total	73	113	186
Universities, Colleges, and Schools			
Florida A & M University	1	3	4
Florida International University	1	1	2
Florida State University	0	2	2
Miami-Dade Community College	2	0	2
School for the Deaf and Blind	1	0	1
Santa Fe Community College	1	0	1
University of Central Florida	1	0	1
Agency Total	7	6	13
Water Management Districts			

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2003

AGENCY	Jan-June	Jul-Dec	TOTAL
South Florida Water Management District	1	8	9
St. Johns River Water Management District	8	3	11
Suwannee River Water Management District	6	0	6
Southwest Florida Water Management District	17	12	29
Agency Total	32	23	55
NON BAKER ACT TOTAL	1,564	1,580	3,144
Baker Acts			
Atlantic Shores Healthcare, Inc.	186	218	404
Bay Medical Behavior	2	0	2
Correctional Mental Health Institute, Zephyrhi	14	1	15
Florida State Hospital	208	180	388
Manatee Glens	0	2	2
Mental Health Care, Inc.	0	1	1
Northeast Florida State Hospital	440	376	816
Northside Mental Health Center	1	5	6
Peace River Center	6	4	10
Personal Enrichment Mental Health Services	0	2	2
Saint Anthony's Hospital	0	1	1
West Florida Community Care Center	23	28	51
Baker Act Total	880	818	1,698

SUMMARY
Division of Administrative Hearings
Actual, Estimated and Requested Expenditures

Adjudication of Disputes

<u>Appropriation Category</u>	<u>Actual Expenditures FY 2002-03</u>	<u>Estimated Expenditures FY 2003-04</u>	<u>Requested Expenditures FY 2004-05</u>
Salaries and Benefits	\$6,596,980	\$6,773,003	\$6,837,971
Other Personal Services	442,190	481,242	481,242
Expenses	1,192,289	1,228,698	1,228,698
Operating Capital Outlay	65,218	71,550	71,550
Special Categories			
Risk Mgmt. Ins.	9,422	13,673	13,673
HR Outsource. Restor.	3,540	0	0
TR/DMS/HR SVCS	4,138	32,052	32,052
Total Program Budget	<u>\$8,313,777</u>	<u>\$8,600,218</u>	<u>\$8,665,186</u>
Total Program Positions	80	78	78

Workers' Compensation Appeals

<u>Appropriation Category</u>	<u>Actual Expenditures FY 2002-03</u>	<u>Estimated Expenditures FY 2003-04</u>	<u>Requested Expenditures FY 2004-05</u>
Salaries and Benefits	\$11,061,002	\$11,634,271	\$11,760,017
Other Personal Services	1,297,658	999,362	999,362
Expenses	3,574,137	3,352,064	3,352,064
Operating Capital Outlay	357,921	28,796	28,796
Special Categories			
Risk Mgmt. Ins.	60,469	87,752	87,752
HR Outsource. Restor.	8,717	0	0
TR/DMS/HR SVCS	10,257	81,205	81,205
Data Processing Services	53,063	42,063	42,063
Total Program Budget	<u>\$16,423,224</u>	<u>\$16,225,513</u>	<u>\$16,351,259</u>
Total Program Positions	197	197	197

TOTAL DIVISION BUDGET	<u>\$24,737,001</u>	<u>\$24,825,731</u>	<u>\$25,016,445</u>
TOTAL DIVISION POSITIONS	277	275	275

2004 DOAH ANNUAL REPORT

#: 31

PERIOD: *July 1, 2003 - June 30, 2004*

DATE: February 1, 2005

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Robert S. Cohen, Chief Judge

PAGES: 23

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2004



**DIVISION OF ADMINISTRATIVE
HEARINGS**



February 1, 2005

THIRTY-FIRST ANNUAL REPORT

Division of Administrative Hearings
Thirty-First Annual Report

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**Division of Administrative Hearings
Thirty-First Annual Report**

This report is submitted to the Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of Section 120.65(10), Florida Statutes, which provides:

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.

GENERAL

The Division of Administrative Hearings administers two programs. One, which is the subject of this report, is the Adjudication of Disputes program that operates pursuant to Chapter 120, Florida Statutes. The other is the Workers' Compensation Appeals program, Office of Judges of Compensation Claims (OJCC), that operates pursuant to Chapter 440, Florida Statutes. Section 440.45(5), Florida Statutes, requires the OJCC to issue an annual report to the Governor, the House of Representatives, the Senate, the Florida Bar, and the statewide nominating commission. This report was submitted on December 23, 2004. Accordingly, the present report will focus

**Division of Administrative Hearings
Thirty-First Annual Report**

primarily on the Adjudication of Disputes program. However, because the headquarters element of the Division must support both programs, this report necessarily must include some information addressing the OJCC.

UTILIZATION RATES

Appendix I breaks out by agency the utilization rates of Division resources and demonstrates, in descending order, that 12 agencies utilized 95 percent of the Division's docket: the Department of Management Services, the Agency for Health Care Administration, the Department of Environmental Protection, the Department of Community Affairs, the Department of Health, the Department of Education, the Department of Business and Professional Regulation, the Department of Revenue, the Department of Financial Services, the Department of Children and Family Services, the Department of Law Enforcement, and the Commission on Ethics. Additionally, entities such as water management districts, cities, counties, school districts, and other educational entities are significant users of the Division's services and are reported separately since they are covered by contractual agreements.

During FY 2003-04, State agencies and governmental entities referrals increased by 8 percent with 4,637 requests for assignment of Administrative Law Judges, compared to 4,305 requests filed the previous fiscal year. Requests for

**Division of Administrative Hearings
Thirty-First Annual Report**

assignment of Administrative Law Judges from the following six agencies constitute 69 percent of our fiscal year caseload: The Florida Commission on Human Relations (248 cases compared to 233 cases filed FY 2002-03), Department of Business and Professional Regulation (265 cases compared to 396 cases filed FY 2002-03), Department of Financial Services (278 cases compared to 246 cases filed FY 2002-03), County School Boards (310 cases compared to 315 cases filed FY 2002-03), Department of Revenue (329 cases, a 165 percent increase over the 124 cases filed FY 2002-03), and the Department of Children and Family Services (1,777 total cases which includes an increase in Baker Act referrals to 1,599 cases in FY 2003-04 compared to 1,236 reported last year, an increase of 29 percent). These are cases where a patient's continued involuntary confinement in a mental institution is decided and a Final Order is issued, which is appealable to the District Court.

UTILIZATION OF PERSONNEL

As of June 30, 2004, the Adjudication of Disputes program had 78 established positions comprised of the Director and Chief Judge, the Deputy Chief Judge, 35 Administrative Law Judges, seven Administrative Secretaries, six Administrative Assistants, one Budget Officer, one Executive Assistant, two Staff Assistants, three Court Reporters (see page 6), one Administrative Services Director, one Personnel Officer, one

**Division of Administrative Hearings
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Purchasing Agent, one Accountant, one Data Base Administrator, one Office Automation Specialist, one Distributed Computer Systems Specialist, one Secretary Specialist, one Clerk of the Commission, one Commission Deputy Clerk, one Deputy Clerk Supervisor, three Deputy Clerks, one Fiscal Assistant, one Clerk Specialist, and five Clerks.

The Workers' Compensation Appeals program has 197 established positions comprised of one Deputy Chief Judge of Compensation Claims, 31 Judges of Compensation Claims, 31 General Masters (mediators), 31 Executive Secretaries, 37 Deputy Clerks (31 in field offices and six in Clerk's Office), two Deputy Clerk Supervisors, six Deputy Commission Clerks, four Administrative Assistants, one Staff Assistant, 35 Administrative Secretaries, nine Secretary Specialists, two Senior Clerks, one Senior Management Analyst, two Accountants, one Distributed Computer Systems Administrator, two Distributed Computer Systems Analysts, and one Attorney.

IN-HOUSE COURT REPORTERS

The Division employed three full-time court reporters in an In-House Court Reporting Program. This Program provided court reporters to state agencies for hearings held in Tallahassee. Appendix 2 indicates that these reporters produced a total of 4,663 pages of transcription for FY 2003-04 and provided a cost savings to state agencies in the amount of \$16,709.75.

**Division of Administrative Hearings
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After an in-depth review and analysis, it was determined that the cost of the program, over both the short-run and the long-run, exceeded the benefits. Accordingly, the In-House Court Reporter Program was terminated effective January 1, 2004. The three positions were eliminated along with the corresponding expense effective July 1, 2004.

HEARING REQUESTS

During FY 2003-04, the Division processed 4,637 hearing requests compared to 4,305 cases filed the previous fiscal year. Of the total cases filed, 1,599 were Baker Act cases. The remaining 3,038 cases were filed pursuant to Sections 120.56, 120.569, and 120.57(1), Florida Statutes. Most notable were the referrals from the Department of Revenue, Child Support Enforcement Program, which increased its referrals by 404 percent with 242 cases filed this fiscal year as compared to 48 cases previously reported. Other agency referrals are contained in Appendix 3. The Division of Administrative Hearings will soon have electronic filing of new cases available. This will be especially helpful where there are time constraints for rendering a Recommended or Final Order. The cases opened are itemized by agency in the attached Appendix 3.

In FY 2003-04, each Administrative Law Judge conducted an average of 39 hearings and wrote an average of 82 recommended or

**Division of Administrative Hearings
Thirty-First Annual Report**

final orders of varying length and complexity. In addition, each Judge closed an average of 64 cases, which were settled or otherwise dismissed without a final hearing.

OFFICE AUTOMATION

The Division maintains two mission-critical databases and applications: the DOAH Case Management System (CMS) and the OJCC Case Management System (JCC). Associated applications include full-text retrieval and document indexing of orders issued by the Division's Administrative Law Judges. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.jcc.state.fl.us. Secondary applications include word processing, electronic mail, and on-line legal research via Westlaw and other Internet resources.

In May of 2004, the Division began registering participants for its electronic filing (e-filing) application, and accepting electronically filed pleadings from Florida Bar members who are parties to administrative law cases. A total of 1,345 pleadings were filed via the e-filing application through the end of 2004. A total of 581 attorneys have registered to participate in the e-filing program.

In 2005, the Division will enhance its administrative law e-filing application to include the issuance of subpoenas and the acceptance of initial case filings to establish new cases.

**Division of Administrative Hearings
Thirty-First Annual Report**

For the Office of Judges of Compensation Claims, development of an electronic filing application was begun. The OJCC e-filing application will be introduced to the public via its website during the first quarter of 2005.

OPERATING BUDGET

The Division is 100 percent trust funded. Appendix 4 summarizes the actual, estimated, and requested expenditures for the Division's programs for FY 2003-04, FY 2004-05, and FY 2005-06, respectively.

For the Adjudication of Disputes program, each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours conducted by its judges for all agencies. Based on this data, the Division's budget is prorated among the state agencies utilizing its services, and the Legislature appropriates fund transfers to the Division from those agencies. Hence, the amount each agency transfers to the Division is based on the amount of time the judges spend in pre-hearing conferences, motion hearings, and final hearings for each agency in a given year. Beginning in FY 2003-04, data on cancelled and continued hearings were excluded from the report, as were the agency transfer calculations under the theory that the agencies should not be penalized for encouraging the resolution of disputes short of proceeding to hearing. In

**Division of Administrative Hearings
Thirty-First Annual Report**

September 2004, the Division submitted its eighteenth report (see Appendix 1). In FY 2003-04, 6,313 hearing hours were held.

The Division is also authorized to enter into contracts with non-state entities such as cities, counties, regional planning councils, water management districts, school districts, and other educational entities for the provision of Administrative Law Judge services. These organizations reimburse the Division for the costs of its services at a contract rate that is based on a total-cost-recovery methodology.

The Division has implemented the Office of Program Policy Analysis and Government Accountability's (OPPAGA's) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to non-state entities. This has been accomplished by increasing the hourly rate that is paid by the non-state entities for Administrative Law Judge services, by marketing the Division's services to attract new non-state entities, and by backing out these revenues before the budget is prorated among the state agencies. The assessment for administrative support that is paid by the Workers' Compensation Appeals program is also backed out before the budget is prorated. Hence, state agency transfers have been reduced by over \$1 million in the Division's FY 2005-06 Legislative Budget Request.

**Division of Administrative Hearings
Thirty-First Annual Report**

The Workers' Compensation Appeals program is supported by cash transfers from the Workers' Compensation Administration Trust Fund that is administered by the Department of Financial Services.

RECOMMENDATIONS CONCERNING THE A.P.A.

The Division closely follows judicial decisions concerning the application and interpretation of the Administrative Procedure Act. The Division clearly recognizes that it must remain fair and impartial in all matters affecting the agencies and private parties that come before it for adjudication of their disputes. However, pursuant to its statutory mandate in Section 120.65(10)(b), Florida Statutes, the Division is required to make recommendations for changes or improvements in the APA "or any agency's practice or policy with respect thereto."

The Division has previously recommended that the Legislature address the doctrine of excusable neglect and make it applicable to administrative proceedings once again as it was prior to 1998. Both the Joint Administrative Procedures Committee and the Florida Bar Administrative Law Section are developing statutory language concerning this issue, and the Division will closely monitor their progress and, where appropriate, make suggestions or offer testimony.

**Division of Administrative Hearings
Thirty-First Annual Report**

Several bills have been filed in the Florida Senate and House of Representatives which relate to providing administrative hearing rights at the Division to individuals who are aggrieved by certain agency action. The Division will continue to closely monitor such legislation and will be available to testify before legislative committees, or meet with individual legislators, concerning any matters related to administrative procedure and newly-created hearing rights.

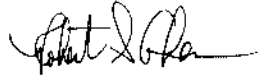
CONCLUSION

The Division continues to supply high-quality adjudication of disputes pursuant to Chapter 120, the Administrative Procedure Act. The Division constantly seeks ways to make the process more affordable to state agencies and citizens and continues to expand its base to counties, cities, and other users of its program in order to reduce the cost of providing services. Through the elimination of programs that prove not to be cost-effective, the elimination of personnel no longer needed in the face of improved technology, and through promoting alternative dispute resolution short of hearing, the Division

Division of Administrative Hearings
Thirty-First Annual Report

contributes to the goal of efficient government. We accomplish this without sacrificing quality and fairness in the Adjudication of Disputes program.

Respectfully submitted,



ROBERT S. COHEN
Director and Chief Judge

RSC/cdl

6/30/2004

HEARING HOURS HELD REPORT

Appendix 1

FY 2003-2004

For the Period 07/01/03 through 06/30/04

CANCELLED/

PRORATED AMT.

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	CONTINUED HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	OF ADJUSTED FY 2005-06 LBR
AHCA	8.75	57.25	0.00	590.75	656.75	14.84432%	\$1,090,941
AGR	0.00	3.00	0.00	37.75	40.75	0.92106%	\$67,690
DBPR	3.00	20.00	0.00	304.00	327.00	7.39108%	\$543,187
DCF	0.50	7.50	0.00	233.50	241.50	5.45855%	\$401,161
CIT	0.00	0.00	0.00	0.00	0.00	0.00000%	\$0
DCA	2.75	17.50	0.00	394.50	414.75	9.37447%	\$688,950
COR	0.00	0.50	0.00	2.00	2.50	0.05651%	\$4,153
DOE	1.25	5.00	0.00	321.75	328.00	7.41369%	\$544,848
ELDER	0.00	0.00	0.00	0.00	0.00	0.00000%	\$0
DEP	8.25	20.25	0.00	493.00	521.50	11.78731%	\$866,275
ETH	0.00	0.00	0.00	79.00	79.00	1.78561%	\$131,229
FWCC	0.00	0.25	0.00	0.00	0.25	0.00565%	\$415
GOV	0.00	0.00	0.00	12.25	12.25	0.27688%	\$20,349
DMA	0.00	0.00	0.00	12.25	12.25	0.27688%	\$20,349
DOH	2.50	9.50	0.00	345.00	357.00	8.06916%	\$593,020
HSM	4.00	7.75	0.00	37.25	49.00	1.10753%	\$81,395
DFS	4.50	21.00	0.00	235.50	261.00	5.89930%	\$433,553
JUV	0.00	0.50	0.00	6.75	7.25	0.16387%	\$12,043
DLE	1.75	3.75	0.00	96.00	101.50	2.29417%	\$168,604
DLA	0.00	0.00	0.00	5.00	5.00	0.11301%	\$8,306
LOT	0.00	0.00	0.00	0.00	0.00	0.00000%	\$0
DMS	18.00	26.75	0.00	617.25	662.00	14.96299%	\$1,099,662
PSC	0.00	0.00	0.00	1.50	1.50	0.03390%	\$2,492
REV	0.50	7.50	0.00	286.00	294.00	6.64519%	\$488,370
DOS	0.00	0.00	0.00	3.00	3.00	0.06781%	\$4,983
DOT	2.75	5.25	0.00	38.50	46.50	1.05103%	\$77,242
VET	0.00	0.00	0.00	0.00	0.00	0.00000%	\$0
TOTAL	58.50	213.25	0.00	4,152.50	4,424.25	100.00000%	\$7,349,217

NOTE: Hearing hours held in contract cases (water management districts, regional planning councils, cities, counties, etc.), NJICA cases, school district/educational entity cases, and other miscellaneous cases are reported separately. Total hearing hours held in child support cases for the Department of Revenue are reported in the fourth quarterly report.

*Prior to prorating among state agencies, DOAH's FY 2005-06 Legislative Budget Request totaling \$8,407,540 was adjusted to reflect estimated revenue of \$638,877 from non-state entities, payment of \$489,533 from the Workers' Compensation Appeals Program for general management and administrative services costs, and the estimated non-operating cost of \$70,087 for state agency video teleconferencing hearings.

06/30/04

HEARING HOURS HELD REPORT
BY CONTRACT/EDUCATIONAL/OTHER AGENCIES

FY 2003-2004

For the Period 07/01/03 through 06/30/04

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	CANCELLED/ CONTINUED HEARING	FINAL HEARING	TOTAL HOURS	% OF HOURS ALL AGENCIES
CONTRACT	2.75	18.25	0.00	202.00	223.00	3.53267%
EPP	0.00	0.25	0.00	3.50	3.75	0.05941%
TL	1.25	0.00	0.00	49.75	51.00	0.80792%
NICA	7.75	6.00	0.00	101.00	114.75	1.81782%
OTHER	0.00	0.00	0.00	0.00	0.00	0.00000%
SCHBDS	44.50	57.00	0.00	1394.25	1,495.75	23.69505%
TOTAL	56.25	81.50	0.00	1,750.50	1,888.25	29.91287%

CONTRACT: Water Management Districts, Regional Planning Councils, Cities, Counties, etc.

EPP: Cases filed by DEP, pursuant to Chapter 403, Florida Statutes

TL: Transmission Line siting cases filed by DEP, pursuant to Chapter 403, Florida Statutes

NICA: Florida Birth-Related Neurological Injury Compensation Association

OTHER: Noncontract entities such as Pinellas County Construction Licensing Board

SCHBDS: School boards and other educational entities specified in the 2003-2004 General Appropriations Act

COST AVOIDANCE TO STATE AGENCIES
For the Period 7/01/03 through 06/30/04

	Total Pages Transcribed	Total Expedited Pages	Regular Pages	24-hour pages	72-hour pages	\$4.25/Pg	\$7.50/Pg 24 hours	\$5.00/Pg 72 hours	Appearance Fee	Misc Charges	Total Cost Avoidance
AHCA	2608		2608			\$12,248.50			\$7,150.00		\$7,547.00
AGR	30		30			\$0.00			\$40.00		\$40.00
CIT											\$0.00
DBPR	111		111			\$471.75			\$200.00		\$671.75
DCF	15		15			\$63.75			\$40.00		\$103.75
DCA											
COR											
DOE	434		434			\$0.00			\$320.00		\$320.00
DEP	100		100			\$425.00			\$120.00		\$545.00
ETH											\$0.00
FWCC											
GOV											
DOH	569		569			\$2,418.25			\$640.00		\$3,058.25
HSM	28		28						\$160.00		\$160.00
DFS	40		40			\$170.00			\$80.00		\$250.00
JCC									\$40.00		\$40.00
JUV											
DLE	80		80			\$340.00			\$160.00		\$500.00
DLA											\$0.00
LOT											
DMS	614		614			\$2,609.50			\$600.00		\$3,209.50
PSC											
REV	34		34			\$144.50			\$120.00		\$264.50
DOS											
DOT											
VET											
SchBds											\$0.00
Total	4663	0		0	0		\$0.00	0	\$9,670.00	\$0.00	\$16,709.75

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2003-2004

AGENCY	Jan-June	Jul-Dec	TOTAL
Authorities			
Jacksonville Transportation Authority	1	0	1
Tampa Port Authority	1	0	1
Agency Total	2	0	2
Department of Agriculture and Consumer Services			
Bureau of License and Bond	11	10	21
Office of Citrus License and Bond	3	3	6
Division of Consumer Services	0	1	1
Division of Food and Safety	1	3	4
Division of Standards	1	0	1
Division of Licensing	2	1	3
Agency Total	18	18	36
Department of Children and Family Services			
Adult Services Program	1	1	2
Developmental Services	3	0	3
Exemption Ch. 435, position of special trust	10	22	32
Family Safety and Preservation Programs	6	7	13
Office of Human Resources Management	3	17	20
Office of Licensure and Certification	66	42	108
Non-Baker Act Total	89	89	178
Contract Hearings			
Contract Hearings	1	0	1
City of Clearwater	1	1	2
City of Tallahassee	1	5	6
Monroe County	1	3	4
Pinellas County Sheriff's Civil Service Board	2	1	3
Pinellas County	3	0	3
Tampa Bay Water, a Regional Water Supply Authority	0	1	1
Agency Total	9	11	20
Commissions			
Florida Commission on Ethics	9	7	16
Florida Commission on Human Relations	115	133	248
Florida Elections Commission	8	6	14
Agency Total	132	146	278
Department of Corrections			
Department of Corrections	1	2	3
Agency Total	1	2	3
County School Boards			
Alachua County School Board	1	1	2
Bay County School Board	0	1	1
Bradford County School Board	0	1	1
Brevard County School Board	5	2	7
Broward County School Board	32	14	46
Citrus County School Board	3	0	3
Clay County School Board	1	2	3
Collier County School Board	1	2	3
Miami-Dade County School Board	30	33	63

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2003-2004

AGENCY	Jan-June	Jul-Dec	TOTAL
Duval County School Board	12	1	13
Escambia County School Board	0	4	4
Flagler County School Board	1	1	2
Gilchrist County School Board	1	0	1
Hernando County School Board	2	1	3
Highlands County School Board	4	8	12
Hillsborough County School Board	4	5	9
Lake County School Board	0	2	2
Lee County School Board	13	1	14
Leon County School Board	2	3	5
Levy County School Board	0	1	1
Manatee County School Board	1	0	1
Marion County School Board	2	2	4
Martin County School Board	1	2	3
Nassau County School Board	1	0	1
Okaloosa County School Board	0	1	1
Orange County School Board	9	7	16
Osceola County School Board	0	1	1
Palm Beach County School Board	13	18	31
Section 504 cases	1	0	1
Pasco County School Board	1	0	1
Pinellas County School Board	3	2	5
Polk County School Board	1	2	3
Putnam County School Board	0	1	1
St Johns County School Board	3	0	3
St Lucie County School Board	4	1	5
Santa Rosa County School Board	1	2	3
Sarasota County School Board	4	0	4
Seminole County School Board	4	5	9
Sumter County School Board	1	0	1
Taylor County School Board	0	1	1
Volusia County School Board	4	1	5
Teacher Termination or Suspension	15	0	15
Agency Total	181	129	310
Department of Community Affairs			
Department of Community Affairs	11	24	35
Florida Building Commission	1	1	2
Florida Housing Finance Corporation	1	8	9
Small Scale Comprehensive Plan Amendment	2	3	5
Agency Total	15	36	51
Department of Elder Affairs			
Department of Elder Affairs	2	0	2
Agency Total	2	0	2
Department of Environmental Protection			
Department of Environmental Protection	26	123	149
Agency Total	26	123	149
Department of Financial Services			
Department of Financial Services	19	3	22
Division of Agents and Agencies Services	42	0	42
Bureau of Unclaimed Property	1	3	4

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2003-2004

AGENCY	Jan-June	Jul-Dec	TOTAL
Division of State Fire Marshal	8	7	15
Financial Services Commission	6	8	14
Office of Insurance Regulation	19	70	89
Neurological Injury	19	24	43
Office of Financial Regulation	2	1	3
Rate Issue Disputes	0	6	6
Bureau of Self-Insurance	1	0	1
Division of Workers` Compensation	18	21	39
Agency Total	135	143	278
Department of Health			
Department of Health	8	21	29
Board of Acupuncture	0	1	1
Bureau of Pharmacy Services	0	3	3
Board of Chiropractic	2	0	2
Board of Clinical Social Work, Marriage and Family	4	0	4
Board of Dentistry	6	2	8
Environmental Health	11	7	18
Bureau of Emergency Medical Services	1	0	1
Board of Hearing Aid Specialists	0	3	3
Board of Medicine	16	18	34
Board of Massage Therapy	5	3	8
Board of Nursing	8	9	17
Board of Orthotists and Prosthetists	0	1	1
Bureau of Radiation Control	0	5	5
Board of Opticianry	0	1	1
Board of Pharmacy	5	16	21
Board of Podiatric Medicine	0	1	1
Board of Psychology	1	0	1
Board of Physical Therapy Practice	0	5	5
Board of Respiratory Therapy	0	1	1
Agency Total	67	97	164
Department of Juvenile Justice			
Department of Juvenile Justice	2	7	9
Agency Total	2	7	9
Department of Law Enforcement			
Criminal Justice Standards and Training Commission	41	31	72
Agency Total	41	31	72
Department of Management Services			
Department of Management Services	3	2	5
Career Service Commission	1	0	1
Convicted Vendor List	1	0	1
Division of State Group Insurance	1	8	9
Division of Retirement	12	11	23
Agency Total	18	21	39
Department of Education			
Department of Education	6	7	13
Division of Blind Services	4	2	6
Commission for Independent Education	1	0	1
Confidential Vocational Rehabilitation Cases	23	15	38

1/28/2005

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2003-2004

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AGENCY	Jan-June	Jul-Dec	TOTAL
Education Practices Commission	44	50	94
Vocational Rehabilitation Services	8	17	25
Agency Total	86	91	177
Department of State			
Department of State	1	1	2
Division of Historical Resources	1	0	1
Agency Total	2	1	3
Department of Transportation			
Department of Transportation	26	24	50
Agency Total	26	24	50
Department of Business and Professional Regulation			
Department of Business and Professional Regulation	4	4	8
Board of Architecture	9	12	21
Barber's Board	0	1	1
Building Code Administrators and Inspectors	2	1	3
Regulatory Council of Community Assoc. of Managers	0	1	1
Construction Industry Licensing Board	26	28	54
Board of Cosmetology	0	1	1
Division of Alcoholic Beverages and Tobacco	18	15	33
Division of Real Estate	31	31	62
Electrical Contractors	1	1	2
Florida Real Estate Appraisal Board	2	1	3
Florida Real Estate Commission	3	2	5
Board of Geologist	1	0	1
Division of Hotels and Restaurants	12	11	23
Board of Landscape Architects	0	1	1
Board of Professional Surveyors and Mappers	1	2	3
Division of Land Sales, Condominiums, and Mobile H	6	4	10
Board of Pilot Commissioners	1	0	1
Board of Professional Engineers	4	7	11
Board of Talent Agencies	0	20	20
Board of Veterinary Medicine	1	0	1
Agency Total	122	143	265
Department of Veterans Affairs			
Department of Veterans Affairs	1	0	1
Agency Total	1	0	1
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	1	0	1
Agency Total	1	0	1
Office of the Governor			
Florida Land and Water Adjudicatory Commission	7	8	15
Agency Total	7	8	15
Agency for Health Care Administration			
Agency for Health Care Administration	5	0	5
Bureau of Managed Care	4	3	7
Office of Certificate of Need	31	39	70
Bureau of Health Facility Regulation	0	4	4

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2003-2004

AGENCY	Jan-June	Jul-Dec	TOTAL
Medicaid Cost Reimbursement	7	3	10
Medicaid Program Integrity	54	79	133
Office of Licensure and Certification	98	113	211
Public Medical Assistance Trust Fund	16	29	45
Agency Total	215	270	485
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	1	8	9
Section 320.642	11	30	41
Agency Total	12	38	50
Medical Arbitration			
Medical Arbitration	6	12	18
Agency Total	6	12	18
Public Service Commission			
Public Service Commission	1	1	2
Agency Total	1	1	2
Department of Revenue			
Department of Revenue	40	47	87
Child Support Enforcement Program	176	66	242
Agency Total	216	113	329
Universities and Colleges			
Florida A & M University	2	3	5
Florida Community College at Jacksonville	1	0	1
Florida International University	0	1	1
Florida State University	0	2	2
Okaloosa-Walton Jr. College	2	0	2
University of Central Florida	1	0	1
University of South Florida	1	0	1
Agency Total	7	6	13
Water Management Districts			
South Florida Water Management District	5	8	13
St. Johns River Water Management District	4	3	7
Southwest Florida Water Management District	6	12	18
Agency Total	15	23	38
NON BAKER ACT TOTAL	1,455	1,583	3,038

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2003-2004

AGENCY	Jan-June	Jul-Dec	TOTAL
Baker Acts			
Atlantic Shores Healthcare, Inc.	166	214	380
Correctional Mental Health Institute, Zephyrhi	6	1	7
Florida State Hospital	195	181	376
Manatee Glens	1	2	3
Mental Health Care, Inc.	0	1	1
Northeast Florida State Hospital	385	379	764
Northside Mental Health Center	3	5	8
Peace River Center	6	4	10
Personal Enrichment Mental Health Services	2	2	4
Saint Anthony`s Hospital	0	1	1
West Florida Community Care Center	17	28	45
Baker Act Total	781	818	1,599

SUMMARY
Division of Administrative Hearings
Actual, Estimated and Requested Expenditures

Adjudication of Disputes

	Actual Expenditures FY 2003-04	Estimated Expenditures FY 2004-05	Requested Expenditures FY 2005-06
Appropriation Category			
Salaries and Benefits	\$6,682,940	\$6,752,668	\$6,603,784
Other Personal Services	239,092	476,742	476,742
Expenses	1,133,117	1,202,743	1,181,287
Operating Capital Outlay	50,762	71,550	71,550
Special Categories			
Risk Mgmt. Ins.	13,673	43,521	43,521
TR/DMS/HR SVCS	23,392	32,212	30,656
Total Program Budget	<u>\$8,142,976</u>	<u>\$8,579,436</u>	<u>\$8,407,540</u>
Total Program Positions	78	75	71

Workers' Compensation Appeals

	Actual Expenditures FY 2003-04	Estimated Expenditures FY 2004-05	Requested Expenditures FY 2005-06
Appropriation Category			
Salaries and Benefits	\$11,609,054	\$12,027,918	\$11,781,093
Other Personal Services	1,063,533	999,362	999,362
Expenses	3,093,027	3,337,759	3,321,667
Operating Capital Outlay	6,295	28,796	28,796
Special Categories			
Risk Mgmt. Ins.	87,752	279,338	279,338
TR/DMS/HR SVCS	61,180	81,611	80,444
Data Processing Services	3,006	42,063	
Total Program Budget	<u>\$15,923,847</u>	<u>\$16,796,847</u>	<u>\$16,490,700</u>
Total Program Positions	197	197	194

TOTAL DIVISION BUDGET	<u>\$24,066,823</u>	<u>\$25,376,283</u>	<u>\$24,898,240</u>
TOTAL DIVISION POSITIONS	275	272	265

2005 DOAH ANNUAL REPORT

#: 32

PERIOD: *July 1, 2004 - June 30, 2005*

DATE: February 1, 2006

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Robert S. Cohen, Chief Judge

PAGES: 22

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2005



**DIVISION OF ADMINISTRATIVE
HEARINGS**



February 1, 2006

THIRTY-SECOND ANNUAL REPORT

Division of Administrative Hearings
Thirty-Second Annual Report

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**Division of Administrative Hearings
Thirty-Second Annual Report**

This report is submitted to the Joint Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of Section 120.65(10), Florida Statutes, which provides:

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.

GENERAL

The Division of Administrative Hearings administers two programs. One, which is the subject of this report, is the Adjudication of Disputes program that operates pursuant to Chapter 120, Florida Statutes. The other is the Workers' Compensation Appeals program, Office of Judges of Compensation Claims (OJCC), that operates pursuant to Chapter 440, Florida Statutes. Subsection 440.45(5), Florida Statutes, requires the OJCC to issue an annual report to the Governor, the House of Representatives, the Senate, the Florida Bar, and the statewide nominating commission. This report was submitted on November 1,

**Division of Administrative Hearings
Thirty-Second Annual Report**

2005. Accordingly, the present report will focus primarily on the Adjudication of Disputes program. However, because the headquarters element of the Division must support both programs, this report necessarily must include some information addressing the OJCC.

UTILIZATION RATES

Appendix I breaks out by agency the utilization rates of Division resources and demonstrates, in descending order, that 12 agencies utilized 94 percent of the Division's docket: the Agency for Health Care Administration, the Department of Management Services, the Department of Revenue, the Department of Financial Services, the Department of Children and Family Services, the Department of Business and Professional Regulation, the Department of Education, the Department of Environmental Protection, the Department of Health, the Department of Community Affairs, the Department of Highway Safety and Motor Vehicles, and the Department of Law Enforcement. Additionally, entities such as water management districts, cities, counties, school districts and other educational entities, are significant users of the Division's services and are reported separately since they are covered by contractual agreements.

During FY 2004-05, State agencies and governmental entities referrals increased by two percent with 4,730 requests for

**Division of Administrative Hearings
Thirty-Second Annual Report**

assignment of Administrative Law Judges, compared to 4,637 requests filed the previous fiscal year. Requests for assignment of Administrative Law Judges from the following six agencies constitute 69 percent of our fiscal year caseload: The Agency for Health Care Administration (499 cases, a 3 percent increase over the 485 cases filed in FY 2003-2004), the Department of Revenue (476 cases, a 45 percent increase over the 329 cases filed in FY 2003-2004), the Department of Business and Professional Regulation (282 cases, a 6 percent increase over the 265 cases filed in FY 2003-2004), Department of Highway Safety and Motor Vehicles (53 cases, a 6 percent increase over the 50 cases filed in FY 2003-2004), the Water Management Districts (48 cases, a 26 percent increase over the 38 cases filed in FY 2003-2004), and the Department of Children and Family Services (1,902 total cases which includes an increase in Baker Act referrals to 1,728 cases in FY 2004-2005, compared to 1,599 reported last year, an increase of 8 percent). These are cases where a patient's continued involuntary confinement in a mental institution is decided and a Final Order is issued, which is appealable to the District Court.

UTILIZATION OF PERSONNEL

As of June 30, 2005, the Adjudication of Disputes program had 75 established positions comprising the Director and Chief Judge, the Deputy Chief Judge, 34 Administrative Law Judges,

**Division of Administrative Hearings
Thirty-Second Annual Report**

seven Administrative Secretaries, six Administrative Assistants, one Budget Officer, one Executive Assistant, three Staff Assistants, one Administrative Services Director, one Personnel Officer, one Purchasing Agent, one Accountant Supervisor, one Data Base Administrator, one Office Automation Specialist, one Distributed Computer Systems Specialist, one Systems Programmer, one Secretary Specialist, one Clerk of the Commission, one Commission Deputy Clerk, one Deputy Clerk Supervisor, two Deputy Clerks, one Fiscal Assistant, one Clerk Typist, one Clerk Typist Specialist, and four Clerks.

The Workers' Compensation Appeals program has 197 established positions comprising of one Deputy Chief Judge of Compensation Claims, 31 Judges of Compensation Claims, 31 General Masters (mediators), 31 Executive Secretaries, 38 Deputy Clerks (31 in field offices and seven in the Clerk's Office), two Deputy Clerk Supervisors, five Deputy Commission Clerks, four Administrative Assistants, one Staff Assistant, 35 Administrative Secretaries, nine Secretary Specialists, two Senior Clerks, one Senior Management Analyst, two Accountants, one Distributed Computer Systems Administrator, two Distributed Computer Systems Analysts, and one Attorney.

HEARING REQUESTS

During FY 2004-05, the Division processed 4,730 hearing requests compared to 4,637 cases filed the previous fiscal year.

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Of the total cases filed, 1,728 were Baker Act cases. The remaining 3,002 cases were filed pursuant to Sections 120.56, 120.569, and 120.57(1), Florida Statutes. Most notable were the referrals from the Department of Revenue, Child Support Enforcement Program, which increased its referrals by 82 percent with 441 cases filed this fiscal year as compared to 242 cases previously reported. Other agency referrals are contained in Appendix 2. The cases opened are itemized by agency in the attached Appendix 2.

In FY 2004-05, each Administrative Law Judge conducted an average of 87 hearings and wrote an average of 34 recommended or final orders of varying length and complexity. In addition, each Judge closed an average of 60 cases, which were settled or otherwise dismissed without a final hearing.

INFORMATION TECHNOLOGY

The Division maintains two mission-critical databases and applications: the DOAH Case Management System (CMS) and the OJCC Case Management System (JCC). Associated applications include full-text retrieval and document indexing of orders issued by the Division's Administrative Law Judges and Judges of Compensation Claims. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.jcc.state.fl.us. Secondary applications include word

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processing, electronic mail, and online legal research via LexisNexis and other Internet resources.

In October of 2005, the Division launched ACCESS, the second version of its electronic filing application. Using ACCESS, registered Florida Bar members may view a list of their current pending cases before the Division, request subpoenas, update their own profile information, and file pleadings in active cases, either by uploading a PDF document or by filling out an online form.

In 2006, the following new features will be added to ACCESS: a dedicated login for each state agency's general counsel, which will provide access to all active cases for that agency currently pending before the Division; acceptance of initial case filings to establish new cases; and the establishment of a dedicated mail server which will support electronic service of orders issued by the Division's Administrative Law Judges to parties in their cases who are registered for ACCESS.

Electronic filing was also launched for the Office of Judges of Compensation Claims in November of 2005, providing much of the same functionality as found in ACCESS. In 2006, the "eJCC" application will be enhanced to include electronic service of orders. Re-design of the current electronic Petition for Benefits will also be completed.

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OPERATING BUDGET

The Division is 100 percent trust funded. Appendix 3 summarizes the actual, estimated, and requested expenditures for the Division's programs for FY 2004-05, FY 2005-06, and FY 2006-07, respectively.

For the Adjudication of Disputes program, each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours conducted by its judges for all agencies. Based on this data, the Division's budget is prorated among the state agencies utilizing its services, and the Legislature appropriates fund transfers to the Division from those agencies. Hence, the amount each agency transfers to the Division is based on the amount of time the judges spend in pre-hearing conferences, motion hearings, and final hearings for each agency in a given year. Beginning in FY 2003-04, data on cancelled and continued hearings were excluded from the report under the theory that the agencies should not be penalized for encouraging the resolution of disputes short of proceeding to hearing. In October 2005, the Division submitted its nineteenth report (see Appendix 1). In FY 2004-05, 5,259 hearing hours were held.

The Division is also authorized to enter into contracts with non-state entities such as cities, counties, regional planning councils, water management districts, school districts

**Division of Administrative Hearings
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and other educational entities, for the provision of Administrative Law Judge services. These organizations reimburse the Division for the costs of its services at a contract rate that is based on a total-cost-recovery methodology.

The Division has implemented the Office of Program Policy Analysis and Government Accountability's (OPPAGA's) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to non-state entities. This has been accomplished by increasing the hourly rate that is paid by the non-state entities for Administrative Law Judge services, by marketing the Division's services to attract new non-state entities, and by backing out these revenues before the budget is prorated among the state agencies. The assessment for administrative support that is paid by the Workers' Compensation Appeals program is also backed out before the budget is prorated. Hence, state agency transfers have been reduced by almost \$1 million in the Division's FY 2006-07 Legislative Budget Request.

The Workers' Compensation Appeals program is supported by cash transfers from the Workers' Compensation Administration Trust Fund that is administered by the Department of Financial Services.

**Division of Administrative Hearings
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RECOMMENDATIONS CONCERNING THE A.P.A.

The Division closely follows judicial decisions concerning the application and interpretation of the Administrative Procedure Act. The Division clearly recognizes that it must remain fair and impartial in all matters affecting the agencies and private parties that come before it for adjudication of their disputes. However, pursuant to its statutory mandate in Subsection 120.65(10)(b), Florida Statutes, the Division is required to make recommendations for changes or improvements in the APA "or any agency's practice or policy with respect thereto."

The Division has previously recommended that the Legislature address the doctrine of excusable neglect and make it applicable to administrative proceedings as it was prior to 1998. Legislation, commonly known as the "APA Bill," reviewed by both the Joint Administrative Procedures Committee and The Florida Bar's Administrative Law Section, has been filed which, among other items, provides requirements for petitions in disciplinary matters, codifies equitable tolling of actions, provides for an electronic Florida Administrative Weekly, and requires the Division to issue a report concerning the agencies' compliance with the statutory requirement of filing final orders with the Division.

**Division of Administrative Hearings
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This year, as in the past, several bills have been filed in the Florida Senate and House of Representatives, which relate to providing administrative hearing rights at the Division to individuals who are aggrieved by certain agency action. For example, a bill has been filed to allow certified law enforcement officers to appeal actions concerning their career service status to either the Public Employees Relations Commission or to the Division. The Division will closely monitor the progress of these and other bills affecting administrative practice before the Division, and will be available to testify before legislative committees, or meet with individual legislators, concerning any matters related to administrative procedure and newly-created hearing rights.

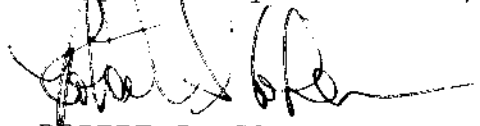
CONCLUSION

The Division continues to supply high-quality adjudication of disputes pursuant to Chapter 120, the Administrative Procedure Act. The Division constantly seeks ways to make the process more affordable to state agencies and citizens and continues to expand its base to counties, cities, and other users of its program in order to reduce the cost of providing services. In the coming year, the Division will continue to focus its efforts on improved technology in order to streamline the electronic filing of all matters before it, as well as to improve access to the public for research, for order

**Division of Administrative Hearings
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preparation, and even for archiving purposes. Through the elimination of programs that prove not to be cost-effective, the elimination of personnel no longer needed in the face of improved technology, and through promoting alternative dispute resolution short of hearing, the Division contributes to the goal of efficient government. We accomplish this without sacrificing quality and fairness in the Adjudication of Disputes program.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Robert S. Cohen', is written over the typed name.

ROBERT S. COHEN
Director and Chief Judge

RSC/cdl

HEARING HOURS HELD REPORT

FY-2004-2005

For the Period 07/01/04 through 06/30/05

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	PRORATED AMOUNT OF FY-2006-07 LBR*
AHCA	15.25	64.25	732.75	812.25	19.93741%	\$1,540,246
AGR	1.75	2.25	27.25	31.25	0.76706%	\$59,258
APD	0.00	0.00	6.00	6.00	0.14728%	\$11,378
AWI	0.50	0.00	0.00	0.50	0.01227%	\$948
DBPR	2.25	10.50	250.25	263.00	6.45557%	\$498,719
DCF	1.25	8.25	273.25	282.75	6.94035%	\$536,171
CIT	0.00	0.00	0.00	0.00	0.00000%	\$0
DCA	3.00	10.00	196.25	209.25	5.13623%	\$396,795
COR	1.25	1.00	0.50	2.75	0.06750%	\$5,215
DOE	1.00	7.25	246.00	254.25	6.24080%	\$482,127
ELDER	0.00	0.00	0.00	0.00	0.00000%	\$0
DEP	4.00	9.75	228.75	242.50	5.95238%	\$459,846
ETH	0.25	2.50	44.00	46.75	1.14752%	\$88,651
FEC	0.50	0.75	24.00	25.25	0.61978%	\$47,881
FWCC	0.25	1.00	4.00	5.25	0.12887%	\$9,955
GOV	0.25	0.75	27.25	28.25	0.69342%	\$53,570
DMA	0.00	0.00	0.00	0.00	0.00000%	\$0
DOH	3.50	10.50	224.50	238.50	5.85420%	\$452,261
HSM	2.50	11.00	104.00	117.50	2.88414%	\$222,812
DFS	8.00	32.00	319.25	359.25	8.81811%	\$681,236
JUV	0.75	0.25	17.75	18.75	0.46024%	\$35,555
DLE	0.00	2.50	85.00	87.50	2.14777%	\$165,924
DLA	0.00	0.00	0.00	0.00	0.00000%	\$0
LOT	0.00	0.00	0.00	0.00	0.00000%	\$0
DMS	12.00	20.75	523.00	555.75	13.64138%	\$1,053,853
PSC	1.25	0.00	9.50	10.75	0.26387%	\$20,385
REV	1.25	1.75	395.00	398.00	9.76927%	\$754,716
DOS	1.00	0.00	0.00	1.00	0.02455%	\$1,896
DOT	0.25	4.50	71.50	76.25	1.87162%	\$144,591
VET	0.00	0.00	0.75	0.75	0.01841%	\$1,422
TOTAL:	62.00	201.50	3810.50	4074.00	100.00000%	\$7,725,411

Note: Hearing hours held in contract cases (water management districts, regional planning councils, cities, counties, school districts/educational entity cases, etc.), NICA cases, and other miscellaneous cases are reported separately.

*Prior to prorating among state agencies, DOAH's FY 2006-07 Legislative Budget Request totaling \$8,663,041 was adjusted to reflect estimated revenue of \$527,873 from non-state entities, payment of \$487,228 from the Workers' Compensation Appeals Program for general management and administrative services costs, and the estimated non-operating cost of \$77,471 for state agency video teleconferencing hearings.

6/30/2005

Appendix 1

HEARING HOURS HELD BY CONTRACT/EDUCATIONAL/OTHER AGENCIES

FY 2004-2005

For the Period 07/01/04 through 06/30/05

<u>AGENCY</u>	<u>PREHEARING CONFERENCE</u>	<u>MOTION HEARING</u>	<u>FINAL HEARING</u>	<u>TOTAL HOURS</u>	<u>% OF HOURS ALL AGENCIES</u>
CONTRACT	7.00	14.25	187.25	208.50	3.96482%
EPP	0.00	0.25	14.00	14.25	0.27098%
TL	0.00	0.00	0.00	0.00	0.00000%
NICA	4.75	11.75	24.75	41.25	0.78441%
OTHER	0.00	0.00	0.00	0.00	0.00000%
SCHBDS	64.50	59.25	797.00	920.75	17.50891%
TOTAL	76.25	85.50	1023.00	1184.75	22.52912%

CONTRACT: Water Management Districts, Regional Planning Councils, Cities, Counties, etc., as specified in Subsection 120.65(11), F.S.
 EPP: Cases filed by DEP, pursuant to Chapter 403, Florida Statutes.

TL: Transmission line stiling cases filed by DEP, pursuant to Chapter 403, Florida Statutes.

NICA: Florida Birth-Related Neurological Injury Compensation Association

OTHER: Noncontract entities such as Pinellas County Construction Licensing Board.

SCHBDS: School boards and other educational entities specified in Subsection 120.65(11), F.S.

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2004-2005

AGENCY	Jul-Dec	Jan-June	TOTAL
Authorities			
Authorities	0	1	1
Agency Total	0	1	1
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	1	0	1
Bureau of License and Bond	5	2	7
Division of Consumer Services	2	0	2
Division of Food and Safety	1	0	1
Division of Standards	2	1	3
Bureau of Entomology and Pest Control	7	2	9
Division of Licensing	7	0	7
Agency Total	25	5	30
Agency for Persons with Disabilities			
Agency for Persons with Disabilities	1	1	2
Agency Total	1	1	2
Agency for Workforce Innovation			
Agency for Workforce Innovation	11	1	12
Agency Total	11	1	12
Department of Children and Family Services			
Adult Services Program	3	1	4
Child or disabled or elderly adult abuse or neglect	1	0	1
Developmental Disabilities	0	5	5
Developmental Services	0	1	1
Exemption Ch. 435, position of special trust	21	10	31
Family Safety and Preservation Programs	7	10	17
Office of Human Resources Management	3	0	3
Florida Medicaid Eligibility	0	2	2
Office of Licensure and Certification	76	34	110
Non-Baker Act Total	111	63	174
Contract Hearings			
Contract Hearings	2	1	3
City of Clearwater	2	1	3
City of Safety Harbor	1	0	1
City of Tallahassee	1	1	2
Jacksonville Environmental Protection Agency	1	0	1
Monroe County	1	0	1
Palm Beach County	0	1	1
Pinellas County	8	8	16
Agency Total	16	12	28
Commissions			
Florida Commission on Ethics	8	8	16
Florida Commission on Human Relations	103	104	207
FCHR, Fair Housing Act	12	19	31
Florida Elections Commission	2	14	16
Agency Total	125	145	270
Department of Corrections			

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2004-2005

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Corrections	2	3	5
Agency Total	2	3	5
County School Boards			
County School Boards	2	0	2
Bay County School Board	1	0	1
Brevard County School Board	1	1	2
Broward County School Board	28	35	63
Clay County School Board	2	0	2
Collier County School Board	0	4	4
Miami-Dade County School Board	26	40	66
Duval County School Board	2	7	9
Escambia County School Board	1	0	1
Hamilton County School Board	1	0	1
Hernando County School Board	2	2	4
Hillsborough County School Board	3	2	5
Indian River County School Board	0	1	1
Lake County School Board	0	2	2
Lee County School Board	9	7	16
Leon County School Board	1	3	4
Manatee County School Board	1	0	1
Marion County School Board	1	5	6
Nassau County School Board	1	1	2
Okaloosa County School Board	1	0	1
Orange County School Board	8	8	16
Osceola County School Board	0	1	1
Palm Beach County School Board	14	14	28
Pasco County School Board	0	1	1
Pinellas County School Board	2	5	7
Polk County School Board	1	0	1
St Johns County School Board	0	1	1
St Lucie County School Board	1	1	2
Santa Rosa County School Board	0	1	1
Sarasota County School Board	7	1	8
Seminole County School Board	1	5	6
Taylor County School Board	0	1	1
Volusia County School Board	0	2	2
Washington County School Board	1	0	1
School for the Deaf and Blind	0	1	1
Teacher Termination or Suspension	0	2	2
Agency Total	118	154	272
Department of Community Affairs			
Department of Community Affairs	20	18	38
Division of Community Planning	1	0	1
Florida Housing Finance Corporation	3	1	4
Small Scale Comprehensive Plan Amendment	2	5	7
Agency Total	26	24	50
Department of Environmental Protection			
Department of Environmental Protection	23	56	79
Agency Total	23	56	79
Department of Financial Services			

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2004-2005

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Financial Services	5	1	6
Division of Insurance Agents and Agencies Services	2	3	5
Division of State Fire Marshal	1	7	8
Bureau of Funeral and Cemetery Services	0	2	2
Agy = OIR as of 2/7/03	56	73	129
Neurological Injury	19	18	37
Division of Workers' Compensation	22	20	42
Agency Total	105	124	229
Department of Health			
Department of Health	3	1	4
Bureau of Testing Services	0	1	1
Board of Chiropractic	2	2	4
Board of Clinical Social Work, Marriage and Family	1	1	2
Division of Children's Medical Services	1	1	2
Board of Dentistry	2	3	5
Environmental Health	5	9	14
Early Intervention Services	1	1	2
Bureau of Emergency Medical Services	0	41	41
Board of Medicine	21	24	45
Board of Massage Therapy	4	0	4
Midwifery Council	1	0	1
Board of Nursing	7	9	16
Board of Optometry	1	1	2
Board of Osteopathic Medicine	5	2	7
Board of Occupational Therapy	0	1	1
Board of Pharmacy	1	0	1
Board of Physical Therapy Practice	1	0	1
Agency Total	56	97	153
Department of Juvenile Justice			
Department of Juvenile Justice	4	2	6
Agency Total	4	2	6
Department of Law Enforcement			
Criminal Justice Standards and Training Commission	37	36	73
Agency Total	37	36	73
Department of Management Services			
Department of Management Services	2	0	2
Division of State Group Insurance	3	4	7
Division of Retirement	8	5	13
Agency Total	13	9	22
Division of Administrative Hearings			
Division of Administrative Hearings	0	1	1
Agency Total	0	1	1
Department of Education			
Department of Education	2	1	3
Bureau of Educator Certification	0	4	4
Division of Blind Services	2	1	3
Confidential Vocational Rehabilitation Cases	20	11	31
Education Practices Commission	70	47	117

**ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2004-2005**

AGENCY	Jul-Dec	Jan-June	TOTAL
Vocational Rehabilitation Services	4	4	8
Agency Total	98	68	166
Department of State			
Division of Elections	1	0	1
Agency Total	1	0	1
Department of Transportation			
Department of Transportation	19	7	26
Commission for the Transportation Disadvantaged	0	1	1
Agency Total	19	8	27
Department of Business and Professional Regulation			
Board of Architecture	6	4	10
Barber's Board	3	2	5
Building Code Administrators and Inspectors	1	0	1
Construction Industry Licensing Board	35	15	50
Board of Cosmetology	3	7	10
Division of Alcoholic Beverages and Tobacco	25	24	49
Division of Real Estate	15	1	16
Florida Real Estate Appraisal Board	1	7	8
Florida Real Estate Commission	4	16	20
Board of Funeral Directors and Embalmers	2	0	2
Board of Geologist	0	1	1
Division of Hotels and Restaurants	28	28	56
Board of Professional Surveyors and Mappers	0	4	4
Division of Land Sales, Condominiums, and Mobile H	3	0	3
Non-licensed Respondent	6	12	18
Board of Pilot Commissioners	1	0	1
Division of Pari-Mutuel Wagering	6	3	9
Board of Professional Engineers	10	7	17
Board of Veterinary Medicine	1	1	2
Agency Total	150	132	282
Department of Veterans Affairs			
Department of Veterans Affairs	1	1	2
Agency Total	1	1	2
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	0	7	7
Agency Total	0	7	7
Office of the Governor			
Administration Commission	2	0	2
Florida Land and Water Adjudicatory Commission	4	3	7
Agency Total	6	3	9
Agency for Health Care Administration			
Agency for Health Care Administration	0	2	2
Audit Quality Control Services	1	11	12
Bureau of Managed Care	1	25	26
Office of Certificate of Need	35	26	61
Bureau of Health Facility Regulation	0	1	1

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2004-2005

AGENCY	Jul-Dec	Jan-June	TOTAL
Medicaid Cost Reimbursement	84	6	90
Medicaid Program Integrity	53	59	112
Office of Licensure and Certification	101	94	195
Agency Total	275	224	499
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	7	19	26
Section 320.642	18	9	27
Agency Total	25	28	53
Medical Arbitration			
Medical Arbitration	2	4	6
Agency Total	2	4	6
No Agency			
Construction Mining	1	0	1
Agency Total	1	0	1
Office of Financial Regulation			
Office of Financial Regulation	1	6	7
Agency Total	1	6	7
Office of Insurance Regulation			
Office of Insurance Regulation	1	0	1
Agency Total	1	0	1
Public Service Commission			
Public Service Commission	1	0	1
Agency Total	1	0	1
Department of Revenue			
Department of Revenue	11	21	32
Child Support Enforcement (payment, loan, levy)	0	3	3
Child Support Enforcement Program	221	220	441
Agency Total	232	244	476
Self-contained Agencies			
Pinellas County Construction Licensing Board	0	1	1
Agency Total	0	1	1
Universities and Colleges			
Florida A & M University	0	1	1
Florida Atlantic University	0	1	1
Florida State University	1	0	1
Miami-Dade Community College	1	0	1
St. Petersburg Jr. College	0	1	1
University of Central Florida	1	1	2
University of Florida	1	0	1
Agency Total	4	4	8
Water Management Districts			
Water Management Districts	-	0	1
Northwest Florida Water Management District	0	1	1

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2004-2005

AGENCY	Jul-Dec	Jan-June	TOTAL
South Florida Water Management District	5	2	7
St. Johns River Water Management District	19	6	25
Suwannee River Water Management District	0	3	3
Southwest Florida Water Management District	4	7	11
Agency Total	29	19	48
NON BAKER ACT TOTAL	1,519	1,483	3,002
Baker Acts			
Correctional Mental Health Institute, Zephyrhi	0	3	3
Florida State Hospital	155	172	327
GEO Care, Inc.	230	230	460
Lake Correctional Institution	2	0	2
Manatee Glens	4	1	5
Mental Health Care, Inc.	0	1	1
Northeast Florida State Hospital	383	472	855
Northside Mental Health Center	4	12	16
Peace River Center	5	1	6
Personal Enrichment Mental Health Services	0	1	1
West Florida Community Care Center	30	22	52
Baker Act Total	813	915	1,728

SUMMARY
Division of Administrative Hearings
Actual, Estimated and Requested Expenditures

Adjudication of Disputes

<u>Appropriation Category</u>	Actual Expenditures FY 2004-05	Estimated Expenditures FY 2005-06	Requested Expenditures FY 2006-07
Salaries and Benefits	\$6,635,880	\$6,844,762	\$6,855,580
Other Personal Services	188,073	476,742	319,242
Expenses	1,134,944	1,181,287	1,144,492
Operating Capital Outlay	71,483	71,550	71,550
Special Categories			
Contracted Services	0	0	189,100
Risk Mgmt. Ins.	43,521	52,814	52,814
TR/DMS/HR SVCS	30,588	30,656	30,263
Total Program Budget	<u>\$8,104,489</u>	<u>\$8,657,811</u>	<u>\$8,663,041</u>
Total Program Positions	75	71	70

Workers' Compensation Appeals

<u>Appropriation Category</u>	Actual Expenditures FY 2004-05	Estimated Expenditures FY 2005-06	Requested Expenditures FY 2006-07
Salaries and Benefits	\$11,999,905	\$12,236,929	\$13,313,608
Other Personal Services	1,054,380	999,362	230,000
Expenses	3,034,399	3,321,667	3,227,629
Operating Capital Outlay	28,759	28,796	48,996
Special Categories			
Contracted Services	0	0	1,295,002
Risk Mgmt. Ins.	279,338	338,986	338,986
TR/DMS/HR SVCS	77,495	80,444	84,374
Total Program Budget	<u>\$16,474,276</u>	<u>\$17,006,184</u>	<u>\$18,538,595</u>
Total Program Positions	197	194	204

TOTAL DIVISION BUDGET	<u>\$24,578,765</u>	<u>\$25,663,995</u>	<u>\$27,201,636</u>
TOTAL DIVISION POSITIONS	272	265	274

2006 DOAH ANNUAL REPORT

#: 33

PERIOD: *July 1, 2005 - June 30, 2006*

DATE: February 1, 2007

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Robert S. Cohen, Chief Judge

PAGES: 25

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2006



DIVISION OF ADMINISTRATIVE HEARINGS



February 1, 2007

THIRTY-THIRD ANNUAL REPORT

Division of Administrative Hearings
Thirty-Third Annual Report

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**Division of Administrative Hearings
Thirty-Third Annual Report**

This report is submitted to the Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of Subsection 120.65(10), Florida Statutes, which provides:

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.

(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).

GENERAL

The Division of Administrative Hearings administers two programs. One, which is the subject of this report, is the Adjudication of Disputes program that operates pursuant to Chapter 120, Florida Statutes. The other is the Workers' Compensation Appeals program, Office of Judges of Compensation Claims (OJCC), that operates pursuant to Chapter 440, Florida Statutes. Subsection 440.45(5), Florida Statutes, requires the

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OJCC to issue an annual report to the Governor, the House of Representatives, the Senate, the Florida Bar, and the statewide nominating commission. This report was submitted on November 28, 2006. Accordingly, the present report will focus primarily on the Adjudication of Disputes program. However, because the headquarters element of the Division must support both programs, this report necessarily must include some information addressing the OJCC.

UTILIZATION RATES

Appendix I breaks out by agency the utilization rates of Division resources and demonstrates, in descending order, that 12 agencies utilized 96 percent of the Division's docket: the Agency for Health Care Administration, the Department of Management Services, the Department of Revenue, the Department of Community Affairs, the Department of Business and Professional Regulation, the Department of Health, the Department of Education, the Department of Children and Family Services, the Department of Environmental Protection, the Department of Financial Services, the Department of Highway Safety and Motor Vehicles, and the Department of Law Enforcement. Additionally, entities such as water management districts, cities, counties, school districts, and other educational entities, are significant users of the Division's

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services and are reported separately since they are covered by contractual agreements.

During FY 2005-2006, state agency and other governmental entity referrals increased by 12 percent with 5,310 requests for assignment of Administrative Law Judges, compared to 4,730 requests filed the previous fiscal year. Requests for assignment of Administrative Law Judges from the following six agencies constitute 59 percent of our fiscal year caseload: the Department of Revenue (717 cases, a 51 percent increase over the 476 cases filed in FY 2004-2005), the Water Management Districts (75 cases, a 56 percent increase over the 48 cases filed in FY 2004-2005), the Department of Business and Professional Regulation (355 cases, a 26 percent increase over the 282 cases filed in FY 2004-2005), the Department of Environmental Protection (83 cases, a 5 percent increase over the 79 cases filed in FY 2004-2005), the Department of Agriculture and Consumer Services (34 cases, a 13 percent increase over the 30 cases filed in FY 2004-2005), Department of Children and Family Services (1,876 total cases which includes an increase in Baker Act referrals to 1,745 cases in FY 2005-2006, compared to 1,728 reported last year, an increase of 1 percent). Baker Act hearings are held in cases where a patient's continued involuntary confinement in a mental institution is decided. In

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these cases a Final Order is issued, which is appealable to the District Court.

UTILIZATION OF PERSONNEL

As of June 30, 2006, the Adjudication of Disputes program had 71 established positions comprised of the Director and Chief Judge, the Deputy Chief Judge, 34 Administrative Law Judges, seven Administrative Secretaries, six Administrative Assistants, one Budget Officer, one Executive Assistant, three Staff Assistants, one Administrative Services Director, one Personnel Officer, one Purchasing Agent, one Accountant Supervisor, one Data Base Administrator, one Office Automation Specialist, one Distributed Computer Systems Administrator, one Systems Programmer, one Clerk of the Division, one Division Deputy Clerk, one Deputy Clerk Supervisor, two Deputy Clerks, one Fiscal Assistant, one Clerk Typist, one Clerk Typist Specialist, and one Clerk.

The Workers' Compensation Appeals program had 194 established positions comprised of one Deputy Chief Judge of Compensation Claims, 31 Judges of Compensation Claims, 31 General Masters (mediators), 31 Executive Secretaries, 35 Deputy Clerks (31 in field offices and four in Clerk's Office), two Deputy Clerk Supervisors, five Commission Deputy Clerks, four Administrative Assistants, one Staff Assistant, 35 Administrative Secretaries, nine Secretary Specialists, two

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Senior Clerks, one Senior Management Analyst, two Accountants, one Distributed Computer Systems Administrator, one Distributed Computer Systems Analyst, one Distributed Computer Systems Specialist and one Senior Attorney.

HEARING REQUESTS

During FY 2005-06, the Division processed 5,310 hearing requests compared to 4,730 cases filed the previous fiscal year. Of the total cases filed, 2,005 were Baker Act cases. The remaining 3,305 cases were primarily filed pursuant to Sections 120.56 and 120.569, and Subsection 120.57(1), Florida Statutes. Most notable were the referrals from the Department of Revenue, Child Support Enforcement Program, which increased its referrals by 54 percent with 678 cases filed this fiscal year as compared to 441 cases previously reported. Also notable, are cases from the Agency for Persons with Disabilities which, pursuant to an appellate court order in 2006, now refers all of its contested Medicaid waiver cases to the Division. This alone could result in as many as 800 new cases in the coming year. Other cases filed are itemized by agency in the attached Appendix 2.

In FY 2005-06, each Administrative Law Judge conducted an average of 89 hearings and wrote an average of 33 recommended or final orders of varying length and complexity. In addition,

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each Judge closed an average of 50 cases, which were settled or otherwise dismissed without a final hearing.

INFORMATION TECHNOLOGY

The Division maintains two mission-critical databases and applications: the DOAH Case Management System (CMS) and the OJCC Case Management System (JCC). Associated applications include full-text retrieval and document indexing of orders issued by the Division's Administrative Law Judges and Judges of Compensation Claims. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include word processing, electronic mail, and online legal research via LexisNexis and other Internet resources.

In December of 2006, the Division added an Agency General Counsel/Agency Clerk screen to its ACCESS (electronic filing) application. This portal allows agency general counsels and clerks to manage their agency's pending caseload before the Division. Capabilities include reporting features and the ability to directly file agency final orders on cases where a DOAH Administrative Law Judge has issued a recommended order. In 2007, the Division will add the capability for agencies to directly file initial documentation to open a new case before the Division, and the Division will implement electronic service of orders issued by the Administrative Law Judges.

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For the Office of Judges of Compensation Claims, development continued on the "eJCC" application. A new version of the electronic Petition for Benefits was released. The new version allows practitioners to electronically file a Petition for Benefits to open a new case and receive their new case number at the time of filing. In 2006, the Division also continued development of the internal "iJCC" application, which allows OJCC staff in district offices to upload documents directly to the production server in Tallahassee, thereby removing the need to send paper documents to Tallahassee by U.S. mail. In 2007, the Division will implement electronic service of orders to eJCC-registered participants.

OPERATING BUDGET

The Division is 100 percent trust funded. Appendix 3 summarizes the actual, estimated, and requested expenditures for the Division's programs for FY 2005-06, FY 2006-07, and FY 2007-08, respectively.

For the Adjudication of Disputes program, each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours conducted by its judges for all agencies. Based on this data, the Division's budget is prorated among the state agencies utilizing its services, and the Legislature appropriates fund transfers to the Division from those agencies. Hence, the amount each agency transfers to the

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Division is based on the amount of time the judges spend in pre-hearing conferences, motion hearings, and final hearings for each agency in a given year. Beginning in FY 2003-04, data on cancelled and continued hearings were excluded from the report under the theory that the agencies should not be penalized for encouraging the resolution of disputes short of proceeding to hearing. In October 2006, the Division submitted its twentieth report (see Appendix 1). In FY 2005-06, 5,330 hearing hours were held.

The Division is also authorized to enter into contracts with non-state entities such as cities, counties, regional planning councils, water management districts, school districts, and other educational entities for the provision of Administrative Law Judge services. The Division executed a contract with the Florida Legislature in late 2006, and the Division's judges are now hearing Florida Senate claim bills. Contract organizations reimburse the Division for the costs of its services at a rate that is based on a total-cost-recovery methodology.

The Division has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA's) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to non-state entities. This has been accomplished by increasing the

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hourly rate that is paid by the non-state entities for Administrative Law Judge services, by marketing the Division's services to attract new non-state entities, and by backing out these revenues before the budget is prorated among the state agencies. The assessment for administrative support that is paid by the Workers' Compensation Appeals program is also backed out before the budget is prorated. Hence, state agency transfers have been reduced by almost \$1 million in the Division's FY 2007-08 Legislative Budget Request.

The Workers' Compensation Appeals program is supported by cash transfers from the Workers' Compensation Administration Trust Fund that is administered by the Department of Financial Services.

RECOMMENDATIONS CONCERNING THE A.P.A.

The Division closely follows judicial decisions concerning the application and interpretation of the Administrative Procedure Act. The Division clearly recognizes that it must remain fair and impartial in all matters affecting the agencies and private parties that come before it for adjudication of their disputes. However, pursuant to its statutory mandate in Subsection 120.65(10)(b), Florida Statutes, the Division is required to make recommendations for changes or improvements in the APA "or any agency's practice or policy with respect thereto." Further, Section 120.65, Florida Statutes, was

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amended in 2006 to require the Division to include recommendations as to the types of cases that should be conducted under the summary hearing process described in Section 120.574, Florida Statutes. § 120.65(10)(c), Fla. Stat. Finally, Section 120.65, Florida Statutes, was amended to require the Division report to include information regarding each agency's compliance with the filing requirement in Subsection 120.57(1)(m), Florida Statutes.

This year, as in the past, several bills have been filed in the Florida Senate and House of Representatives, which relate to providing administrative hearing rights at the Division to individuals who are aggrieved by certain agency action. For example, a bill has been filed to provide "first responders" a certain standard of proof for work-related injuries, as well as the continuation of certain benefits, and a method for determining attorney's fees in those workers' compensation cases. Additionally, since the Division now performs Special Master duties under contract with the Florida Senate, those specific Administrative Law Judges assigned to hear legislative claim bills may be called upon to support their decisions before the appropriate Senate committee.

The summary hearing process set forth in Section 120.574, Florida Statutes, has been selected by agencies and private parties only in rare instances since its enactment in 1998. In

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fact, to date, fewer than 20 cases have been heard by the Division under this Section. If certain regulatory agencies, namely, those responsible for the prosecution of licensure disciplinary matters, such as the Department of Business and Professional Regulation and the Department of Health, were to refer their "misdemeanor" cases (those where the only penalty sought is an administrative fine) into the summary hearing process, the Division could assist with any backlog these agencies currently experience with respect to these cases. Also, if the minor infraction cases were referred to the Division for prompt adjudication, the regulatory agencies could concentrate their efforts (and precious meeting time for the volunteer members of the professional licensing boards) on the more serious matters which pose a threat to the health, safety, and welfare of the citizens of Florida. The Division could easily handle these additional summary matters with its current complement of judges and support staff. Another complement of cases currently referred to the Division, Medicaid waiver matters from the Agency for Persons with Disabilities, may be compatible with the summary hearing process. The majority of these matters involve little, if any, discovery; are set for hearing on an expedited basis; and involve claims by individuals who need a rapid determination of their entitlement, or continued entitlement, to health care benefits. Additionally,

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these matters generally involve limited records and post-hearing submissions by the parties. Since the Division currently handles these matters with its existing personnel, no additional staffing would be required to move these matters into the summary hearing process.

With only six months of data since the enactment of Subsection 120.65(10)(d), Florida Statutes, it is too soon to determine whether agencies have improved the timeliness of filing their final orders with the Division. The preliminary indication is that four of the agencies employing the services of the Division have completely or substantially complied with the 15-day filing requirement (Department of Community Affairs, Department of Corrections, Department of Highway Safety and Motor Vehicles, and the Florida Birth-Related Neurological Injury Compensation Association). Of the 47 agency final orders filed with the Division between July 1, 2006, and January 29, 2007, 14 were filed within 15 days of entry by the agency. The Division intends to remind the agencies of the statutory requirement to timely file their final orders. Following its "reminders" and once the Division has at least a year's worth of data, it will be in a better position to respond to the new statutory requirement concerning the timeliness of final order filing.

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CONCLUSION

The Division continues to supply high-quality adjudication of disputes pursuant to Chapter 120, the Administrative Procedure Act, despite an increase of 12 percent in its caseload. The Division constantly seeks ways to make the process more affordable to state agencies and citizens, and continues to expand its base to counties, cities, and other users of its program in order to reduce the cost of providing services. In the coming year, the Division will continue to focus its efforts on improved technology in order to streamline the electronic filing of all matters before it, as well as to improve access to the public for research, for order preparation, and even for archiving purposes. Through the elimination of programs that prove not to be cost-effective; through the elimination of personnel no longer needed in the face of improved technology; through promoting alternative dispute resolution short of hearing; and through encouraging agencies to take advantage of the summary hearing process, and to increase the number of non-state agencies contracting for the Division's services, the Division contributes to the goal of

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efficient government. We accomplish this without sacrificing quality and fairness in the Adjudication of Disputes program.

Respectfully submitted,

ROBERT S. COHEN
Director and Chief Judge

RSC/lds

6/30/2006

Appendix 1

HEARING HOURS HELD REPORT
FY 2005-2006
For the Period 07/01/05 through 06/30/2006

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	PRORATED AMOUNT OF FY 2007-08 LBR*
AHCA	9.00	30.75	884.75	924.50	22.47478%	\$1,855,107
AGR	1.00	2.00	27.00	30.00	0.72931%	\$60,198
APD	0.75	0.00	7.00	7.75	0.18840%	\$15,551
AWI	1.25	0.00	0.00	1.25	0.03039%	\$2,508
DPBR	2.50	8.00	274.75	285.25	6.93448%	\$572,384
DCF	1.50	7.50	207.25	216.25	5.25708%	\$433,928
CIT	0.00	0.00	0.00	0.00	0.00000%	\$0
DCA	1.25	12.25	321.00	334.50	8.13176%	\$671,209
COR	0.00	0.00	4.00	4.00	0.09724%	\$8,026
DOE	3.50	5.75	209.00	218.25	5.30570%	\$437,942
ELDER	0.00	0.00	0.00	0.00	0.00000%	\$0
DEP	7.00	20.25	162.50	189.75	4.61286%	\$380,753
ETH	0.00	0.00	22.00	22.00	0.53482%	\$44,145
FEC	0.50	1.50	34.50	36.50	0.88732%	\$73,241
FWCC	0.00	1.75	0.00	1.75	0.04254%	\$3,512
GOV	0.00	0.50	20.00	20.50	0.49836%	\$41,135
DMA	0.00	0.00	0.00	0.00	0.00000%	\$0
DOH	2.00	9.75	232.00	243.75	5.92561%	\$489,110
HSM	1.00	7.25	95.50	103.75	2.52218%	\$208,185
DFS	2.25	12.50	144.50	159.25	3.87140%	\$319,552
JUV	0.00	0.25	3.75	4.00	0.09724%	\$8,026
DLE	0.50	2.50	59.00	62.00	1.50723%	\$124,410
DLA	0.00	0.00	0.00	0.00	0.00000%	\$0
LOT	0.00	0.00	0.00	0.00	0.00000%	\$0
DMS	13.25	23.50	658.50	695.25	16.90167%	\$1,395,093
PSC	0.00	0.00	0.00	0.00	0.00000%	\$0
REV	1.00	0.50	519.25	520.75	12.65954%	\$1,044,940
DOS	0.00	0.00	0.00	0.00	0.00000%	\$0
DOT	1.00	2.25	28.25	31.50	0.76577%	\$63,208
VET	0.00	0.00	1.00	1.00	0.02431%	\$2,007
TOTAL:	49.25	148.75	3915.50	4113.50	100.00000%	\$8,254,170

NOTE: Hearing hours held in contract cases (water management districts, regional planning councils, cities, counties, school district/educational entity cases, etc.), NICA cases, and other miscellaneous cases are reported separately.

*Prior to prorating among state agencies, DOAH's FY 2007-08 Legislative Budget Request totaling \$9,134,467 was adjusted to reflect estimated revenue of \$365,182 from non-state entities, payment of \$592,291 from the Workers' Compensation Appeals Program for general management and administrative services costs, and the estimated non-operating cost of \$77,176 for state agency video teleconferencing hearings.

6/30/2006

Appendix 1

HEARING HOURS HELD BY CONTRACT/EDUCATIONAL/OTHER AGENCIES

FY 2005-2006

For the Period 07/01/05 through 06/30/06

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF HOURS ALL AGENCIES
CONTRACT					
EPP	11.00	10.25	128.75	150.00	2.81426%
TL	0.00	0.00	7.75	7.75	0.14540%
NICA	0.00	0.00	3.00	3.00	0.05629%
OTHER	2.00	7.00	35.50	44.50	0.83490%
SCHBDS	0.00	0.00	4.00	4.00	0.07505%
	66.50	29.50	911.25	1007.25	18.89775%
TOTAL:	79.50	46.75	1090.25	1216.50	22.82364%

CONTRACT: Water Management Districts, Regional Planning Councils, Cities, Counties, etc., as specified in Subsection 120.65(11), F.S.

EPP: Cases filed by DEP, pursuant to Chapter 403, Florida Statutes.

TL: Transmission line siting cases filed by DEP, pursuant to Chapter 403, Florida Statutes.

NICA: Florida Birth-Related Neurological Injury Compensation Association.

OTHER: Noncontract entities such as Pinellas County Construction Licensing Board

SCHBDS: School boards and other educational entities specified in Subsection 120.65(11), F.S.

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2005-2006

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	2	0	2
Bureau of License and Bond	4	4	8
Office of Citrus License and Bond	4	0	4
Division of Consumer Services	0	4	4
Division of Food and Safety	3	2	5
Division of Standards	0	1	1
Bureau of Entomology and Pest Control	2	3	5
Division of Licensing	1	4	5
Agency Total	16	18	34
Agency for Persons with Disabilities			
Agency for Persons with Disabilities	5	3	8
Agency Total	5	3	8
Agency for Workforce Innovation			
Agency for Workforce Innovation	1	0	1
Early Learning Coalition of Pasco and Hernando Cou	0	3	3
Agency Total	1	3	4
Department of Children and Family Services			
Department of Children and Family Services	3	1	4
Administrative Support Center	2	0	2
Adult Services Program	1	0	1
Developmental Disabilities	0	1	1
Exemption Ch. 435, position of special trust	10	22	32
Family Safety and Preservation Programs	14	19	33
Office of Human Resources Management	3	0	3
Office of Licensure and Certification	24	31	55
Non-Baker Act Total	57	74	131
Contract Hearings			
City of Clearwater	2	1	3
City of Gainesville	0	1	1
City of Palatka	1	0	1
City of Tallahassee	0	2	2
Emerald Coast Utilities Authority	0	1	1
Leon County	0	2	2
Monroe County	0	1	1
Pinellas County	1	3	4
Agency Total	4	11	15
Commissions			
Commission for the Transportation Disadvantaged	1	0	1
Florida Commission on Ethics	7	4	11
Florida Commission on Human Relations	124	72	196
FCHR, Fair Housing Act	19	7	26
Florida Elections Commission	10	9	19
Florida Parole Commission	0	2	2
Hillsborough County Public Transportation Commissi	1	0	1
Agency Total	162	94	256
Department of Corrections			
Department of Corrections	2	2	4
Agency Total	2	2	4

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2005-2006

AGENCY	Jul-Dec	Jan-June	TOTAL
County School Boards			
Alachua County School Board	2	0	2
Bay County School Board	2	1	3
Brevard County School Board	2	3	5
Broward County School Board	24	19	43
Charlotte County School Board	1	0	1
Clay County School Board	1	1	2
Collier County School Board	4	3	7
Miami-Dade County School Board	22	60	82
Duval County School Board	6	4	10
Escambia County School Board	1	2	3
Flagler County School Board	0	1	1
Gadsden County School Board	1	0	1
Hernando County School Board	3	1	4
Hillsborough County School Board	1	0	1
Holmes County School Board	0	2	2
Jackson County School Board	0	1	1
Lake County School Board	1	1	2
Lee County School Board	5	5	10
Leon County School Board	0	1	1
Manatee County School Board	0	1	1
Marion County School Board	5	2	7
Monroe County School Board	0	1	1
Nassau County School Board	0	2	2
Okaloosa County School Board	0	1	1
Okeechobee County School Board	1	0	1
Orange County School Board	8	4	12
Osceola County School Board	0	5	5
Palm Beach County School Board	8	10	18
Section 504 cases	1	0	1
Pinellas County School Board	0	10	10
Polk County School Board	0	3	3
St Johns County School Board	2	2	4
Sarasota County School Board	1	3	4
Seminole County School Board	6	1	7
Suwannee County School Board	0	1	1
Volusia County School Board	0	2	2
School for the Deaf and Blind	1	0	1
Agency Total	109	153	262
Districts			
Community Development District (Ch. 190, F.S.)	2	0	2
Agency Total	2	0	2
Department of Community Affairs			
Department of Community Affairs	16	37	53
Florida Building Commission	1	0	1
Florida Housing Finance Corporation	0	2	2
Small Scale Comprehensive Plan Amendment	2	6	8
Agency Total	19	45	64
Department of Elder Affairs			
Department of Elder Affairs	1	1	2
Agency Total	1	1	2

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2005-2006

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Environmental Protection			
Department of Environmental Protection	40	43	83
Agency Total	40	43	83
Department of Financial Services			
Department of Financial Services	25	25	50
Division of Insurance Agents and Agencies Services	19	20	39
Bureau of Unclaimed Property	3	1	4
Division of State Fire Marshal	4	0	4
Division of Funeral, Cemetery, and Consumer Service	2	0	2
Financial Services Commission	1	4	5
Multiple Hurricane Deductible Reimbursement Program	4	0	4
Neurological Injury	10	15	25
Division of Workers' Compensation	27	14	41
Agency Total	95	79	174
Department of Health			
Department of Health	0	1	1
Board of Acupuncture	2	1	3
Bureau of Statewide Pharmacy Services	2	1	3
Bureau of Testing Services	0	1	1
Bureau of Water Programs	1	0	1
Board of Chiropractic	4	4	8
Clinical Laboratory Personnel	0	3	3
Board of Clinical Social Work, Marriage and Family	1	0	1
Division of Administration	1	0	1
Board of Dentistry	1	4	5
Environmental Health	8	4	12
Bureau of Emergency Medical Services	6	1	7
Board of Hearing Aid Specialists	1	0	1
Human Resources Office	2	0	2
Board of Medicine	29	27	56
Council of Licensed Midwifery	0	1	1
Board of Nursing Home Administrators	0	1	1
Board of Nursing	7	7	14
Board of Orthotists and Prosthetists	1	0	1
Board of Osteopathic Medicine	0	1	1
Board of Pharmacy	2	0	2
Board of Psychology	0	1	1
Board of Physical Therapy Practice	2	1	3
Agency Total	70	59	129
Department of Juvenile Justice			
Department of Juvenile Justice	3	14	17
Agency Total	3	14	17
Department of Law Enforcement			
Department of Law Enforcement	1	3	4
Criminal Justice Standards and Training Commission	37	25	62
Agency Total	38	28	66

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
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AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Management Services			
Department of Management Services	2	2	4
Career Service Commission	0	1	1
Convicted Vendor List	0	2	2
Division of State Group Insurance	2	5	7
Division of Retirement	12	5	17
Agency Total	16	15	31
Department of Education			
Department of Education	1	5	6
Bureau of Educator Certification	1	1	2
Division of Blind Services	1	0	1
Confidential Vocational Rehabilitation Cases	25	1	26
Education Practices Commission	35	50	85
Vocational Rehabilitation Services	13	20	33
Agency Total	76	77	153
Department of Transportation			
Department of Transportation	16	29	45
Agency Total	16	29	45
Department of Business and Professional Regulation			
Department of Business and Professional Regulation	0	3	3
Board of Architecture	1	0	1
Barber's Board	2	7	9
Building Code Administrators and Inspectors	0	2	2
Regulatory Council of Community Assoc. of Managers	0	4	4
Construction Industry Licensing Board	10	33	43
Board of Cosmetology	2	10	12
Division of Alcoholic Beverages and Tobacco	25	24	49
Division of Real Estate	1	1	2
Electrical Contractors	3	4	7
Florida Real Estate Appraisal Board	0	3	3
Florida Real Estate Commission	15	14	29
Board of Funeral Directors and Embalmers	0	1	1
Board of Geologist	1	0	1
Division of Hotels and Restaurants	61	38	99
Board of Professional Surveyors and Mappers	1	1	2
Non-licensed Respondent	9	29	38
Division of Pari-Mutuel Wagering	11	6	17
Board of Professional Engineers	16	8	24
State Boxing Commission	1	1	2
Board of Veterinary Medicine	0	7	7
Agency Total	159	196	355
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	0	1	1
Agency Total	0	1	1
Office of the Governor			
Florida Land and Water Adjudicatory Commission	0	3	3
Florida Land and Water Adjudicatory Commission, Co	4	2	6
Office of Film and Entertainment, Executive Office	1	0	1
Agency Total	5	5	10

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2005-2006

AGENCY	Jul-Dec	Jan-June	TOTAL
Agency for Health Care Administration			
Agency for Health Care Administration	2	0	2
Audit Quality Control Services	7	1	8
Bureau of Managed Care	9	25	34
Office of Certificate of Need	30	28	58
Bureau of Health Facility Regulation	0	1	1
Medicaid Cost Reimbursement	9	7	16
Medicaid Program Integrity	51	38	89
Office of Licensure and Certification	59	35	94
Agency Total	167	135	302
 Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	12	5	17
Section 320.642	7	14	21
Agency Total	19	19	38
 Medical Arbitration			
Medical Arbitration	6	2	8
Agency Total	6	2	8
 No Agency			
Construction Mining	1	0	1
Agency Total	1	0	1
 Office of Financial Regulation			
Office of Financial Regulation	5	1	6
Agency Total	5	1	6
 Office of Insurance Regulation			
Office of Insurance Regulation	5	5	10
Agency Total	5	5	10
 Pasco County (2004-430, LOF/HB 0987)			
Pasco County (2004-430, LOF/HB 0987)	1	0	1
Agency Total	1	0	1
 Department of Revenue			
Department of Revenue	26	12	38
Child Support Enforcement (payment, lien, levy)	0	1	1
Child Support Enforcement Program	339	339	678
Agency Total	365	352	717
 State Board of Administration			
State Board of Administration	1	0	1
Agency Total	1	0	1
 Universities and Colleges			
Florida A & M University	2	4	6
St. Johns River Community College	0	1	1
Agency Total	2	5	7

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2005-2006

AGENCY	Jul-Dec	Jan-June	TOTAL
Water Management Districts			
Northwest Florida Water Management District	0	1	1
South Florida Water Management District	4	1	5
St. Johns River Water Management District	50	7	57
Suwannee River Water Management District	0	1	1
Southwest Florida Water Management District	7	4	11
Agency Total	61	14	75
 NON BAKER ACT TOTAL	 1,529	 1,483	 3,012
 Baker Acts			
East Pasco Medical Center	0	1	1
Florida State Hospital	139	135	274
Lake Correctional Institution	14	15	29
Manatee Glens	1	0	1
Mental Health Care, Inc.	0	1	1
Meridian Behavioral Healthcare, Inc.	1	0	1
Northeast Florida State Hospital	471	381	852
Northside Mental Health Center	3	4	7
Peace River Center	9	5	14
Personal Enrichment Mental Health Services	1	4	5
Shands at the University of Florida	3	0	3
Shands at Vista	2	0	2
South Florida State Hospital	290	216	506
West Florida Community Care Center	21	28	49
Baker Act Total	955	790	1,745

SUMMARY
Division of Administrative Hearings
Actual, Estimated and Requested Expenditures

Adjudication of Disputes

	Actual Expenditures FY 2005-06	Estimated Expenditures FY 2006-07	Requested Expenditures FY 2007-08
Appropriation Category			
Salaries and Benefits	\$6,886,595	\$7,116,118	\$7,204,237
Other Personal Services	161,327	319,242	319,242
Expenses	1,176,815	1,208,355	1,216,145
Operating Capital Outlay	71,386	71,550	142,375
Special Categories			
Contracted Services	0	187,600	200,021
Risk Mgmt. Ins.	52,814	24,261	24,261
TR/DMS/HR SVCS	29,122	28,154	28,186
Total Program Budget	<u>\$8,378,059</u>	<u>\$8,955,280</u>	<u>\$9,134,467</u>
Total Program Positions	71	70	70

Workers' Compensation Appeals

	Actual Expenditures FY 2005-06	Estimated Expenditures FY 2006-07	Requested Expenditures FY 2007-08
Appropriation Category			
Salaries and Benefits	\$12,198,672	\$13,167,220	\$13,669,866
Other Personal Services	965,523	230,000	230,000
Expenses	3,230,178	3,241,521	3,226,462
Operating Capital Outlay	128,513	38,896	28,796
Special Categories			
Contracted Services	0	1,114,951	1,136,549
Contracted Legal Svcs.	0	2,500	2,500
Risk Mgmt. Ins.	338,986	155,715	155,715
TR/DMS/HR SVCS	76,419	81,256	81,348
Total Program Budget	<u>\$16,938,291</u>	<u>\$18,032,059</u>	<u>\$18,531,236</u>
Total Program Positions	194	199	199

TOTAL DIVISION BUDGET **\$25,316,350**
TOTAL DIVISION POSITIONS **265**

\$26,987,339
269

\$27,665,703
269

2007 DOAH ANNUAL REPORT

#: 34

PERIOD: *July 1, 2006 - June 30, 2007*

DATE: February 1, 2008

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Robert S. Cohen, Chief Judge

PAGES: 25

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2007



DIVISION OF ADMINISTRATIVE HEARINGS



February 1, 2008

THIRTY-FOURTH ANNUAL REPORT

Division of Administrative Hearings
Thirty-Fourth Annual Report

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**Division of Administrative Hearings
Thirty-Fourth Annual Report**

This report is submitted to the Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of Subsection 120.65(10), Florida Statutes, which provides:

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.

(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).

GENERAL

The Division of Administrative Hearings administers two programs. One, which is the subject of this report, is the Adjudication of Disputes program that operates pursuant to Chapter 120, Florida Statutes. The other is the Workers' Compensation Appeals program, Office of Judges of Compensation Claims (OJCC), which operates pursuant to Chapter 440, Florida

**Division of Administrative Hearings
Thirty-Fourth Annual Report**

Statutes. Subsection 440.45(5), Florida Statutes, requires the OJCC to issue an annual report to the Governor, the House of Representatives, the Senate, the Florida Bar, and the statewide nominating commission. This report was submitted on November 6, 2007. Accordingly, the present report will focus primarily on the Adjudication of Disputes program. However, because the headquarters element of the Division must support both programs, this report necessarily must include some information addressing the OJCC.

UTILIZATION RATES

Appendix I breaks out by agency the utilization rates of Division resources and demonstrates, in descending order, that 12 agencies utilized 94 percent of the Division's docket: the Department of Revenue, the Agency for Health Care Administration, the Department of Management Services, the Agency for Persons with Disabilities, the Department of Financial Services, the Department of Children and Family Services, the Department of Health, the Department of Environmental Protection, the Department of Business and Professional Regulation, the Department of Transportation, the Department of Community Affairs, and the Department of Education. Additionally, entities such as water management districts, cities, counties, school districts, and other educational entities, are significant users of the Division's

**Division of Administrative Hearings
Thirty-Fourth Annual Report**

services and are reported separately since they are covered by contractual agreements.

During FY 2006-2007, state agency and other governmental entity referrals increased by 10 percent with 5,859 requests for assignment of Administrative Law Judges, compared to 5,310 requests filed the previous fiscal year. Requests for assignment of Administrative Law Judges from the following six agencies constitute 44 percent of our fiscal year caseload: the Agency for Persons with Disabilities (625 cases, a 7,713 percent increase over the eight cases filed in FY 2005-2006), the Department of Revenue (1,278 cases, a 78 percent increase over the 717 cases filed in FY 2005-2006), the Department of Community Affairs (114 cases, a 78 percent increase over the 64 cases filed in FY 2005-2006), the Department of Health (152 cases, a 18 percent increase over the 129 cases filed in FY 2005-2006), the Department of Environmental Protection (95 cases, a 14 percent increase over the 83 cases filed in FY 2005-2006), and the Agency for Health Care Administration (337 cases, a 12 percent increase over the 302 cases filed in FY 2005-2006).

UTILIZATION OF PERSONNEL

As of June 30, 2007, the Adjudication of Disputes program had 70 established positions comprised of the Director and Chief Judge, the Deputy Chief Judge, 34 Administrative Law Judges, seven Administrative Secretaries, six Administrative Assistants,

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one Budget Officer, one Executive Assistant, three Staff Assistants, one Administrative Services Director, one Personnel Officer, one Purchasing Agent, one Accountant Supervisor, one Database Administrator, one Office Automation Specialist, one Distributed Computer Systems Administrator, one Systems Programmer, one Clerk of the Division, one Commission Deputy Clerk, one Deputy Clerk Supervisor, two Deputy Clerks, one Fiscal Assistant, one Clerk Typist, and one Clerk Typist Specialist. With one Administrative Secretary or Administrative Assistant assigned to three judges, this represents a highly efficient model for the adjudicatory process. Our judges utilize a minimum of administrative personnel to perform their assigned tasks.

The Workers' Compensation Appeals program had 199 established positions comprised of one Deputy Chief Judge of Compensation Claims, 32 Judges of Compensation Claims, 32 General Masters (mediators), 32 Executive Secretaries, 36 Deputy Clerks (32 in field offices and four in Clerk's Office), two Deputy Clerk Supervisors, five Commission Deputy Clerks, five Administrative Assistants, one Staff Assistant, 34 Administrative Secretaries, eleven Secretary Specialists, one Senior Clerk, one Senior Management Analyst, two Accountants, one Distributed Computer Systems Administrator, one Distributed Computer Systems Analyst, one Distributed Computer Systems

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Specialist and one Senior Attorney. In an extremely high volume area of the law, the program constantly seeks ways to combine staff positions and responsibilities in the interest of cost savings.

HEARING REQUESTS

During FY 2006-07, the Division processed 5,859 hearing requests compared to 5,310 cases filed the previous fiscal year. Of the total cases filed, 1,558 were Baker Act cases. The remaining 4,301 cases were primarily filed pursuant to Sections 120.56 and 120.569, and Subsection 120.57(1), Florida Statutes. Most notable were the referrals from the Agency for Persons with Disabilities, which increased its referrals by 7,713 percent with 625 cases filed this fiscal year as compared to eight cases previously reported. Other cases filed are itemized by agency in the attached Appendix 2.

In FY 2006-07, each Administrative Law Judge conducted an average of 113 hearings and wrote an average of 52 recommended or final orders of varying length and complexity. In addition, each Judge closed an average of 60 cases, which were settled or otherwise dismissed without a final hearing.

INFORMATION TECHNOLOGY

The Division maintains two mission-critical databases and applications: the DOAH Case Management System (CMS) and the OJCC Case Management System (JCC). Associated applications

**Division of Administrative Hearings
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include full-text retrieval and document indexing of orders issued by the Division's Administrative Law Judges and Judges of Compensation Claims. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include word processing, electronic mail, and online legal research via LexisNexis and other Internet resources.

In 2007, the Division continued its development of the electronic filing applications. For the OJCC, a total of 105,103 documents were electronically filed by practitioners. On the Adjudication of Disputes side, 9,779 documents were electronically filed. The growth in the use of electronic filing, which, at this point, is voluntary since no statutory mandate exists, was due, in large part, to the efforts of Division staff and leadership in promoting the efficiencies of filing by electronic means. The Division is committed to continuing to promote the use of electronic services over traditional means of filing and serving documents and will unveil its electronic service program in fiscal year 2007-2008. The savings to the users of electronic filing, in terms of paper, postage, and time, has already registered in the tens of thousands of dollars and will continue to grow as the technology is more widely accepted by users of the Division's services.

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Website enhancements to both sites were begun in 2007, and will be completed in 2008. These enhancements include a Google-based search capability for orders issued by both judges of compensation claims and administrative law judges. Further enhancements will include the re-design of both sites and an English-to-Spanish translation capability.

OPERATING BUDGET

The Division is 100 percent trust funded. Appendix 3 summarizes the actual, estimated, and requested expenditures for the Division's programs for FY 2006-07, FY 2007-08, and FY 2008-09, respectively.

For the Adjudication of Disputes program, each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours conducted by its judges for all agencies. Based on this data, the Division's budget is prorated among the state agencies utilizing its services, and the Legislature appropriates fund transfers to the Division from those agencies. Hence, the amount each agency transfers to the Division is based on the amount of time the judges spend in pre-hearing conferences, motion hearings, and final hearings for each agency in a given year. Beginning in FY 2003-04, data on cancelled and continued hearings were excluded from the report under the theory that the agencies should not be penalized for encouraging the resolution of disputes short of proceeding to

**Division of Administrative Hearings
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hearing. In October 2007, the Division submitted its twenty-first report (see Appendix 1). In FY 2006-07, 5,217 hearing hours were held. (Appendix I excludes Baker Act hearing hours, which totaled 237 in FY 2006-07).

The Division is also authorized to enter into contracts with non-state entities such as cities, counties, regional planning councils, water management districts, school districts, and other educational entities for the provision of Administrative Law Judge services. The Division executed a contract with the Florida Legislature in late 2006, and the Division's judges are now hearing Florida Senate claim bills. Contract organizations reimburse the Division for the costs of its services at a rate that is based on a total-cost-recovery methodology.

The Division has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA's) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to non-state entities. This has been accomplished by increasing the hourly rate that is paid by the non-state entities for Administrative Law Judge services, by marketing the Division's services to attract new non-state entities, and by backing out these revenues before the budget is prorated among the state agencies. The assessment for administrative support that is

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paid by the Workers' Compensation Appeals program is also backed out before the budget is prorated. Hence, state agency transfers have been reduced by almost \$1 million in the Division's FY 2008-09 Legislative Budget Request. In the coming year, the Director and other members of the Division's staff will continue their efforts to solicit new contractual business from local government entities to further offset the cost of supporting the Division that is borne by our state agencies.

The Workers' Compensation Appeals program is supported by cash transfers from the Workers' Compensation Administration Trust Fund that is administered by the Department of Financial Services. This trust fund is funded through a workers' compensation premium tax assessment which supports the entire workers' compensation program, not just the appeals program administered by the Division.

RECOMMENDATIONS CONCERNING THE A.P.A.

The Division closely follows judicial decisions concerning the application and interpretation of the Administrative Procedure Act (A.P.A.). The Division clearly recognizes that it must remain fair and impartial in all matters affecting the agencies and private parties that come before it for adjudication of their disputes. However, pursuant to its statutory mandate in Subsection 120.65(10)(b), Florida Statutes, the Division is required to make recommendations for changes or

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improvements in the A.P.A. "or any agency's practice or policy with respect thereto." Further, Section 120.65, Florida Statutes, was amended in 2006 to require the Division to include recommendations as to the types of cases that should be conducted under the summary hearing process described in Section 120.574, Florida Statutes. § 120.65(10)(c), Fla. Stat. Finally, Section 120.65, Florida Statutes, was amended to require the Division report to include information regarding each agency's compliance with the filing requirement in Subsection 120.57(1)(m), Florida Statutes.

This year, as in the past, several bills have been filed in the Florida Senate and House of Representatives, which relate to providing administrative hearing rights at the Division to individuals who are aggrieved by certain agency action. In the past year, the Division has been granted final order authority in certain election cases. Also, nuclear power plant siting has become a subject for potential hearings before the Division. Additionally, since the Division now performs Special Master duties under contract with the Florida Senate, those specific Administrative Law Judges assigned to hear legislative claim bills may be called upon to support their decisions before the appropriate Senate committee.

The summary hearing process set forth in Section 120.574, Florida Statutes, has been selected by agencies and private

Division of Administrative Hearings
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parties only in rare instances since its enactment in 1998. In fact, to date, fewer than 20 cases have been heard by the Division under this Section. Once again, we will note that if certain regulatory agencies, namely, those responsible for the prosecution of licensure disciplinary matters, such as the Department of Business and Professional Regulation and the Department of Health, were to refer their "misdemeanor" cases (those where the only penalty sought is an administrative fine) into the summary hearing process, the Division could assist with any backlog these agencies currently experience with respect to these cases. Also, if the minor infraction cases were referred to the Division for prompt adjudication, the regulatory agencies could concentrate their efforts (and precious meeting time for the volunteer members of the professional licensing boards) on the more serious matters which pose a threat to the health, safety, and welfare of the citizens of Florida. The Division could easily handle these additional summary matters with its current complement of judges and support staff. Another complement of cases currently referred to the Division, Medicaid waiver matters from the Agency for Persons with Disabilities, may be compatible with the summary hearing process. The majority of these matters involve little, if any, discovery; are set for hearing on an expedited basis; and involve claims by individuals who need a rapid determination of their entitlement,

**Division of Administrative Hearings
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or continued entitlement, to health care benefits.

Additionally, these matters generally involve limited records and post-hearing submissions by the parties. Since the Division currently handles these matters with its existing personnel, no additional staffing would be required to move these matters into the summary hearing process.

With a full year's data since the enactment of Subsection 120.65(10)(d), Florida Statutes, many agencies have improved the timeliness of filing their final orders with the Division. In this past fiscal year, eight of the sixteen agencies employing the services of the Division have completely or substantially complied with the 15-day filing requirement (Agency for Health Care Administration, Agency for Persons with Disabilities, Florida Commission on Human Relations, Florida Elections Commission, Department of Agriculture and Consumer Services, Department of Business and Professional Regulation, Department of Children and Family Services, Department of Financial Services, Department of Highway Safety and Motor Vehicles, Department of Law Enforcement, and the Department of Revenue). Overall, of the 536 agency final orders filed with the Division between July 1, 2006, and June 30, 2007, 357 (66.6%) were filed within 15 days of entry by the agency. The Division once again intends to remind the agencies of the statutory requirement to timely file their final orders.

**Division of Administrative Hearings
Thirty-Fourth Annual Report**

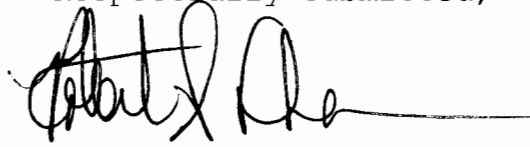
CONCLUSION

The Division continues to supply high-quality adjudication of disputes pursuant to Chapter 120, the Administrative Procedure Act, despite an increase of 10 percent in its caseload. The Division constantly seeks ways to make the process more affordable to state agencies and citizens, and continues to expand its base to counties, cities, and other users of its program in order to reduce the cost of providing services. In the coming year, the Division will continue to focus its efforts on improved technology in order to streamline the electronic filing of all matters before it, as well as to improve access to the public for research, for order preparation, and even for archiving purposes. Through the elimination of programs that prove not to be cost-effective; through the elimination of personnel no longer needed in the face of improved technology; through promoting alternative dispute resolution short of hearing; and through encouraging agencies to take advantage of the summary hearing process, and to increase the number of non-state agencies contracting for the Division's services, the Division contributes to the goal of efficient government. We accomplish this without sacrificing quality and fairness in the Adjudication of Disputes program,

Division of Administrative Hearings
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and hope to accomplish our goals without requesting significant additional funding from the Legislature.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Robert S. Cohen', with a long horizontal line extending to the right.

ROBERT S. COHEN
Director and Chief Judge

RSC/lds

HEARING HOURS HELD REPORT

FY 2006-2007

For the Period 07/01/06 through 6/30/2007

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	PRORATED AMOUNT OF FY 2008-09 LBR*
AHCA	8.75	44.00	574.00	626.75	15.60632%	\$1,254,542
AGR	1.75	0.75	32.50	35.00	0.87151%	\$70,059
APD	5.00	10.25	327.50	342.75	8.53461%	\$686,070
AWI	0.00	0.00	0.00	0.00	0.00000%	\$0
DPBR	3.50	7.00	179.75	190.25	4.73730%	\$380,816
DCF	0.75	6.75	242.25	249.75	6.21887%	\$499,915
CIT	0.00	0.00	0.00	0.00	0.00000%	\$0
DCA	4.25	7.00	128.50	139.75	3.47983%	\$279,732
COR	0.50	8.25	4.75	13.50	0.33616%	\$27,022
DOE	3.50	3.00	82.25	88.75	2.20991%	\$177,647
ELDER	0.00	0.00	0.00	0.00	0.00000%	\$0
DEP	3.75	18.25	172.00	194.00	4.83068%	\$388,322
ETH	0.25	0.50	29.25	30.00	0.74701%	\$60,050
FEC	0.25	2.00	9.00	11.25	0.28013%	\$22,519
FWCC	0.00	0.00	11.00	11.00	0.27390%	\$22,018
GOV	0.25	0.00	7.00	7.25	0.18053%	\$14,512
DMA	0.00	0.00	0.00	0.00	0.00000%	\$0
DOH	2.25	8.75	225.00	236.00	5.87649%	\$472,392
HSM	1.75	1.25	64.50	67.50	1.68078%	\$135,112
DFS	4.75	11.25	236.25	252.25	6.28113%	\$504,919
JUV	0.25	0.50	7.75	8.50	0.21165%	\$17,014
DLE	0.00	2.75	45.50	48.25	1.20144%	\$96,580
DLA	0.00	0.00	0.00	0.00	0.00000%	\$0
LOT	0.00	0.00	0.00	0.00	0.00000%	\$0
DMS	4.50	28.00	365.00	397.50	9.89791%	\$795,660
PSC	0.00	0.00	0.00	0.00	0.00000%	\$0
REV	0.25	4.00	878.50	882.75	21.98083%	\$1,766,967
DOS	0.00	0.00	3.00	3.00	0.07470%	\$6,005
DOT	1.75	6.25	172.25	180.25	4.48830%	\$360,800
VET	0.00	0.00	0.00	0.00	0.00000%	\$0
TOTAL:	48.00	170.50	3797.50	4016.00	100.00000%	\$8,038,673

NOTE: Hearing hours held in contract cases (water management districts, regional planning councils, cities, counties, school district/educational entity cases, etc.), NICA cases, and other miscellaneous cases are reported separately.

*Prior to prorating among state agencies, DOAH's FY 2008-09 Legislative Budget Request totaling \$9,071,435 was adjusted to reflect estimated revenue of \$536,574 from contract entities, payment of \$573,167 from the Workers' Compensation Appeals Program for general management and administrative services costs, and the estimated non-operating cost of \$76,979 for state agency video teleconferencing hearings.

**ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2006 - 2007**

AGENCY	Jul-Dec	Jan-June	TOTAL
Authorities			
Authorities	0	1	1
Tampa Port Authority	0	1	1
Agency Total	0	2	2
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	1	0	1
Bureau of Compliance and Monitoring	0	1	1
Bureau of License and Bond	5	4	9
Office of Citrus License and Bond	1	0	1
Division of Animal Industry	0	1	1
Division of Consumer Services	0	1	1
Division of Food and Safety	4	6	10
Division of Standards	4	0	4
Bureau of Entomology and Pest Control	1	7	8
Agency Total	16	20	36
Agency for Persons with Disabilities			
Agency for Persons with Disabilities	10	7	17
Medicaid Waiver Benefits (Attorney General referral)	145	239	384
Medicaid Waiver Benefits (DCFS referral)	132	12	144
Medicaid Waiver Benefits (APD referral)	37	43	80
Agency Total	324	301	625
Agency for Workforce Innovation			
Agency for Workforce Innovation	1	0	1
Agency Total	1	0	1
Department of Children and Family Services			
Department of Children and Family Services	0	4	4
Alcoholic, Drug Abuse and Mental Health	0	1	1
Economic Self-Sufficiency	0	1	1
Exemption Ch. 435, position of special trust	23	30	53
Family Safety and Preservation Programs	4	5	9
Office of Human Resources Management	1	7	8
Office of Licensure and Certification	42	40	82
Non-Baker Act Total	70	88	158
Contract Hearings			
Bradford County	1	0	1
Claim Bill (Senate)	30	3	33
City of Cape Coral	0	1	1
City of Gainesville	3	1	4
Clay County	1	0	1
Code Enforcement	0	1	1
City of Starke	1	0	1
City of Tallahassee	2	5	7
Emerald Coast Utilities Authority	0	1	1
Hillsborough County	4	0	4
Pinellas County	3	6	9
Agency Total	45	18	63
Commissions			
Commission for the Transportation Disadvantaged	1	0	1

**ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2006 - 2007**

AGENCY	Jul-Dec	Jan-June	TOTAL
Florida Commission on Ethics	7	4	11
Florida Commission on Human Relations	58	62	120
FCHR, Fair Housing Act	9	11	20
Florida Elections Commission	8	4	12
Florida Commission on Hurricane Loss Projection Me	1	0	1
Agency Total	84	81	165
Department of Corrections			
Department of Corrections	1	5	6
Agency Total	1	5	6
County School Boards			
Bay County School Board	3	4	7
Bradford County School Board	1	0	1
Brevard County School Board	0	4	4
Broward County School Board	11	19	30
Citrus County School Board	1	0	1
Clay County School Board	1	0	1
Collier County School Board	1	2	3
Miami-Dade County School Board	38	44	82
Duval County School Board	5	2	7
Escambia County School Board	1	2	3
Flagler County School Board	0	4	4
Hendry County School Board	1	0	1
Hernando County School Board	1	0	1
Highlands County School Board	1	0	1
Hillsborough County School Board	2	4	6
Indian River County School Board	0	2	2
Lee County School Board	1	2	3
Marion County School Board	3	4	7
Nassau County School Board	0	1	1
Orange County School Board	5	10	15
Osceola County School Board	1	3	4
Palm Beach County School Board	8	9	17
Section 504 cases	0	4	4
Pinellas County School Board	2	4	6
Polk County School Board	1	3	4
St Johns County School Board	2	1	3
Sarasota County School Board	5	3	8
Seminole County School Board	1	4	5
Volusia County School Board	3	1	4
Wakulla County School Board	0	1	1
Walton County School Board	1	1	2
School for the Deaf and Blind	2	5	7
Teacher Termination or Suspension	13	19	32
Agency Total	115	162	277
Department of Community Affairs			
Department of Community Affairs	54	52	106
Florida Housing Finance Corporation	3	1	4
Small Scale Comprehensive Plan Amendment	2	2	4
Agency Total	59	55	114
Department of Environmental Protection			
Department of Environmental Protection	60	35	95

**ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2006 - 2007**

AGENCY	Jul-Dec	Jan-June	TOTAL
Agency Total	60	35	95
Department of Financial Services			
Department of Financial Services	2	1	3
Division of Insurance Agents and Agencies Services	51	41	92
Bureau of Unclaimed Property	1	1	2
Division of State Fire Marshal	1	1	2
Division of Funeral, Cemetery, and Consumer Service	3	3	6
Neurological Injury	16	22	38
Division of Workers' Compensation	29	30	59
Agency Total	103	99	202
Department of Health			
Department of Health	1	1	2
Board of Acupuncture	2	0	2
Bureau of Statewide Pharmacy Services	2	1	3
Bureau of Testing Services	2	1	3
Board of Chiropractic	2	7	9
Board of Clinical Social Work, Marriage and Family	1	3	4
Board of Dentistry	6	8	14
Environmental Health	2	3	5
Bureau of Emergency Medical Services	1	0	1
Board of Medicine	31	41	72
Board of Massage Therapy	1	0	1
Council of Licensed Midwifery	0	1	1
Board of Nursing	4	8	12
Board of Orthotists and Prosthetists	0	1	1
Board of Osteopathic Medicine	1	2	3
Board of Pharmacy	9	6	15
Board of Podiatric Medicine	3	0	3
Board of Physical Therapy Practice	0	1	1
Agency Total	68	84	152
Department of Juvenile Justice			
Department of Juvenile Justice	7	9	16
Agency Total	7	9	16
Department of Law Enforcement			
Criminal Justice Standards and Training Commission	22	25	47
Medical Examiners Commission	1	0	1
Agency Total	23	25	48
Department of Military Affairs			
Department of Military Affairs	1	0	1
Agency Total	1	0	1
Department of Management Services			
Department of Management Services	3	0	3
Convicted Vendor List	1	0	1
Division of State Group Insurance	4	7	11
Division of Retirement	7	12	19
Agency Total	15	19	34
Department of Education			
Department of Education	6	1	7

**ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2006 - 2007**

AGENCY	Jul-Dec	Jan-June	TOTAL
Confidential Vocational Rehabilitation Cases	2	1	3
Education Practices Commission	35	44	79
Board of Independent Colleges and Universities	1	0	1
Vocational Rehabilitation Services	18	21	39
Agency Total	62	67	129
Department of State			
Division of Elections	1	0	1
Agency Total	1	0	1
Department of Transportation			
Department of Transportation	36	23	59
Agency Total	36	23	59
Department of Business and Professional Regulation			
Board of Architecture	2	1	3
Board of Auctioneers	0	1	1
Barber's Board	0	1	1
Building Code Administrators and Inspectors	0	1	1
Construction Industry Licensing Board	18	41	59
Board of Cosmetology	7	6	13
Division of Alcoholic Beverages and Tobacco	4	30	34
Division of Real Estate	23	14	37
Electrical Contractors	2	1	3
Florida Real Estate Appraisal Board	1	0	1
Florida Real Estate Commission	12	2	14
Board of Geologist	1	0	1
Division of Hotels and Restaurants	26	45	71
Board of Professional Surveyors and Mappers	0	2	2
Division of Land Sales, Condominiums, and Mobile H	8	0	8
Non-licensed Respondent	29	38	67
Board of Pilot Commissioners	0	1	1
Division of Pari-Mutuel Wagering	2	0	2
Board of Professional Engineers	4	19	23
Board of Veterinary Medicine	3	4	7
Agency Total	142	207	349
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	1	4	5
Agency Total	1	4	5
Office of the Governor			
Florida Land and Water Adjudicatory Commission, Co	1	9	10
Agency Total	1	9	10
Agency for Health Care Administration			
Agency for Health Care Administration	3	3	6
Audit Quality Control Services	16	1	17
Bureau of Managed Care	19	22	41
Office of Certificate of Need	17	35	52
Bureau of Health Facility Regulation	1	0	1
Medicaid Cost Reimbursement	4	0	4
Medicaid Program Integrity	44	51	95
Office of Licensure and Certification	69	52	121

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2006 - 2007

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AGENCY	Jul-Dec	Jan-June	TOTAL
Agency Total	173	164	337
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	14	9	23
Section 320.642	12	25	37
Agency Total	26	34	60
Medical Arbitration			
Medical Arbitration	5	6	11
Agency Total	5	6	11
No Agency			
Construction Mining	1	1	2
Agency Total	1	1	2
Office of Financial Regulation			
Office of Financial Regulation	2	3	5
Agency Total	2	3	5
Office of Insurance Regulation			
Office of Insurance Regulation	10	11	21
Agency Total	10	11	21
Public Service Commission			
Public Service Commission	1	0	1
Agency Total	1	0	1
Department of Revenue			
Department of Revenue	11	20	31
Child Support Enforcement (payment, lien, levy)	2	2	4
Child Support Enforcement Program	684	559	1,243
Agency Total	697	581	1,278
Self-contained Agencies			
Pinellas County Construction Licensing Board	0	1	1
Agency Total	0	1	1
Universities and Colleges			
Florida A & M University	1	1	2
Seminole Community College	0	1	1
University of Central Florida	0	1	1
University of Florida	1	0	1
University of South Florida	1	0	1
Agency Total	3	3	6
Water Management Districts			
South Florida Water Management District	4	4	8
St. Johns River Water Management District	4	2	6
Southwest Florida Water Management District	7	10	17
Agency Total	15	16	31
NON BAKER ACT TOTAL	2,168	2,133	4,301

ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2006 - 2007

AGENCY	Jul-Dec	Jan-June	TOTAL
Baker Acts			
Broward Correctional Institution	0	5	5
Florida State Hospital	90	114	204
Lake Correctional Institution	8	15	23
Lakeside Behavioral Healthcare	0	1	1
Manatee Glens	1	0	1
Meridian Behavioral Healthcare, Inc.	0	1	1
Northeast Florida State Hospital	429	350	779
Northside Mental Health Center	2	0	2
Palms of Pasadena Hospital	0	1	1
Peace River Center	12	10	22
Personal Enrichment Mental Health Services	2	3	5
Shands at the University of Florida	1	2	3
South Florida State Hospital	254	219	473
West Florida Community Care Center	22	16	38
Baker Act Total	821	737	1,558

SUMMARY
Division of Administrative Hearings
Actual, Estimated and Requested Expenditures

Adjudication of Disputes

	Actual Expenditures FY 2006-07	Estimated Expenditures FY 2007-08	Requested Expenditures FY 2008-09 ^(a)
Appropriation Category			
Salaries and Benefits	\$7,014,059	\$7,181,095	\$7,206,714
Other Personal Services	29,215	101,953	101,953
Expenses	1,209,686	1,210,425	1,202,635
Operating Capital Outlay	71,517	142,375	71,550
Special Categories			
Contracted Services	177,881	200,021	195,475
Risk Mgmt. Ins.	24,261	16,461	14,174
TR/DMS/HR SVCS	28,154	27,753	27,753
Total Program Budget	<u>\$8,554,773</u>	<u>\$8,880,083</u>	<u>\$8,820,254</u>
Total Program Positions	70	69	69

Workers' Compensation Appeals

	Actual Expenditures FY 2006-07	Estimated Expenditures FY 2007-08	Requested Expenditures FY 2008-09 ^(a)
Appropriation Category			
Salaries and Benefits	\$12,897,982	\$13,325,566	\$13,410,455
Other Personal Services	173,761	230,000	230,000
Expenses	3,336,811	3,270,218	3,305,680
Operating Capital Outlay	38,803	28,796	28,796
Fixed Capital Outlay	0	1,154,914	0
Special Categories			
Contracted Services	1,091,192	1,144,549	1,136,549
Contracted Legal Svcs.	265	2,500	2,500
Risk Mgmt. Ins.	155,715	105,651	90,972
TR/DMS/HR SVCS	81,256	80,855	80,855
Total Program Budget	<u>\$17,775,785</u>	<u>\$19,343,049</u>	<u>\$18,285,807</u>
Total Program Positions	199	198	198

TOTAL DIVISION BUDGET	<u>\$26,330,558</u>	<u>\$28,223,132</u>	<u>\$27,106,061</u>
TOTAL DIVISION POSITIONS	269	267	267

^(a) Adjusted to include budget cuts adopted during Special Session 2007-C (Chapter 2007-326, Laws of Florida).

2008 DOAH ANNUAL REPORT

#: 35

PERIOD: *July 1, 2007 - June 30, 2008*

DATE: February 1, 2009

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Robert S. Cohen, Chief Judge

PAGES: 26

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2008



DIVISION OF ADMINISTRATIVE HEARINGS



February 1, 2009

THIRTY-FIFTH ANNUAL REPORT

Division of Administrative Hearings
Thirty-Fifth Annual Report

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**Division of Administrative Hearings
Thirty-Fifth Annual Report**

This report is submitted to the Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of Subsection 120.65(10), Florida Statutes, which provides:

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.

(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).

GENERAL

The Division of Administrative Hearings administers two programs. One, which is the subject of this report, is the Adjudication of Disputes program that operates pursuant to Chapter 120, Florida Statutes. The other is the Workers' Compensation Appeals program, Office of the Judges of Compensation Claims (OJCC), which operates pursuant to Chapter

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440, Florida Statutes. Subsection 440.45(5), Florida Statutes, requires the OJCC to issue an annual report to the Governor, the House of Representatives, the Senate, The Florida Bar, and the statewide nominating commission. This report was submitted on November 20, 2008. Accordingly, the present report will focus primarily on the Adjudication of Disputes program. However, because the headquarters element of the Division must support both programs, this report necessarily must include some information addressing the OJCC.

UTILIZATION RATES

Appendix I breaks out by agency the utilization rates of Division resources and demonstrates, in descending order, that 12 agencies utilized 94 percent of the Division's docket: the Department of Revenue, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Management Services, the Department of Financial Services, the Department of Community Affairs, the Department of Environmental Protection, the Department of Children and Family Services, the Department of Business and Professional Regulation, the Department of Health, the Department of Education, and the Department of Highway Safety and Motor Vehicles. Additionally, entities such as water management districts, cities, counties, school districts, and other educational entities, are significant users of the Division's

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services and are reported separately since they are covered by contractual agreements.

During FY 2007-2008, state agency and other governmental entity referrals increased by three percent with 6,045 requests for assignment of Administrative Law Judges, compared to 5,859 requests filed the previous fiscal year. Requests for assignment of Administrative Law Judges from the following six agencies constitute 49 percent of our fiscal year caseload: the Department of Business and Professional Regulation (508 cases, a 46 percent increase over the 349 cases filed in FY 2006-2007), the Department of Children and Family Services (1,849 cases which includes an increase in Baker Act referrals to 1,723 cases in FY 2007-2008, compared to 1,558 reported in FY 2006-2007, an increase of 11 percent), the Department of Environmental Protection (111 cases, a 17 percent increase over the 95 cases filed in FY 2006-2007), the Department of Health (174 cases, a 14 percent increase over the 152 cases filed in FY 2006-2007), the Department of Highway Safety and Motor Vehicles (80 cases, a 33 percent increase over the 60 cases filed in FY 2006-2007) and the Department of Management Services (255 cases, a 47 percent increase over the 174 cases filed in FY 2006-2007).

UTILIZATION OF PERSONNEL

As of June 30, 2008, the Adjudication of Disputes program had 69 established positions comprising the Director and Chief

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Judge, the Deputy Chief Judge, 34 Administrative Law Judges, seven Administrative Secretaries, six Administrative Assistants, one Budget Officer, one Executive Assistant, three Staff Assistants, one Administrative Services Director, one Personnel Officer, one Purchasing Agent, one Accountant Supervisor, one Database Administrator, one Office Automation Specialist, one Distributed Computer Systems Analyst, one Systems Programmer, one Clerk of the Division, one Commission Deputy Clerk, one Deputy Clerk Supervisor, two Deputy Clerks, and two Senior Clerks. With one Administrative Secretary or Administrative Assistant assigned to three judges, this represents a highly efficient model for the adjudicatory process. Our judges utilize a minimum of administrative personnel to perform their assigned tasks.

The Workers' Compensation Appeals program had 198 established positions comprising one Deputy Chief Judge of Compensation Claims, 32 Judges of Compensation Claims, 32 General Masters (mediators), 32 Executive Secretaries, 36 Deputy Clerks (32 in field offices and four in Clerk's Office), two Deputy Clerk Supervisors, eight Commission Deputy Clerks, five Administrative Assistants, one Staff Assistant, 31 Administrative Secretaries, ten Secretary Specialists, one Senior Clerk, one Senior Management Analyst, two Accountants, one Distributed Computer Systems Administrator, one Distributed

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Computer Systems Analyst, one Distributed Computer Systems Specialist and one Senior Attorney. In an extremely high volume area of the law, the program constantly seeks ways to combine staff positions and responsibilities in the interest of cost savings.

HEARING REQUESTS

During FY 2007-08, the Division processed 6,045 hearing requests compared to 5,859 cases filed the previous fiscal year. Of the total cases filed, 1,723 were Baker Act cases. The remaining 4,322 cases were primarily filed pursuant to Sections 120.56 and 120.569, and Subsection 120.57(1), Florida Statutes. Most notable were the referrals from the Department of Business and Professional Regulation, which increased its referrals by 46 percent with 508 cases filed this fiscal year as compared to 349 cases previously reported. Other cases filed are itemized by agency in the attached Appendix 2.

In FY 2007-08, each Administrative Law Judge conducted an average of 108 hearings and wrote an average of 30 recommended or final orders of varying length and complexity. In addition, each Judge closed an average of 69 cases, which were settled or otherwise dismissed without a final hearing.

INFORMATION TECHNOLOGY

The Division maintains two mission-critical databases and applications: the DOAH Case Management System (CMS) and the

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OJCC Case Management System (JCC). Associated applications include full-text retrieval and document indexing of orders issued by the Division's Administrative Law Judges and Judges of Compensation Claims. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include word processing, electronic mail, and online legal research via LexisNexis and other Internet resources.

In 2008, the Division continued its development of the electronic-filing applications. For the OJCC, a total of 316,303 documents were electronically filed by practitioners. For the Adjudication of Disputes, 12,679 documents were electronically filed. The growth in the use of electronic filing, which, at this point, is voluntary since no statutory mandate exists, was due, in large part, to the efforts of Division staff and leadership in promoting the efficiencies of filing by electronic means. The Division is committed to continuing to promote the use of electronic services over traditional means of filing and serving documents. Electronic service of selected orders has been implemented and will be expanded to include all orders issued by the OJCC. Online initiation of new cases has also been implemented. The savings to the users of electronic filing, in terms of paper, postage, and time, has already registered in the tens of thousands of

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dollars and will continue to grow as the technology is more widely accepted by users of the Division's services.

Website enhancements made in 2008 include the addition of a Google-based search capability and, on the OJCC website, an English-to-Spanish translation capability.

OPERATING BUDGET

The Division is 100 percent trust funded. Appendix 3 summarizes the actual, estimated, and requested expenditures for the Division's programs for FY 2007-08, FY 2008-09, and FY 2009-10, respectively.

For the Adjudication of Disputes program, each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours conducted by its judges for all agencies. Based on this data, the Division's budget is prorated among the state agencies utilizing its services, and the Legislature appropriates fund transfers to the Division from those agencies. Hence, the amount each agency transfers to the Division is based on the amount of time the judges spend in pre-hearing conferences, motion hearings, and final hearings for each agency in a given year. Beginning in FY 2003-04, data on cancelled and continued hearings were excluded from the report under the theory that the agencies should not be penalized for encouraging the resolution of disputes short of proceeding to hearing. In October 2008, the Division submitted its twenty-

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second "Hearing Hours Held" report (see Appendix 1). In FY 2007-08, 5,070 hearing hours were held. (Appendix I excludes Baker Act hearing hours, which totaled 231 in FY 2007-08).

The Division is also authorized to enter into contracts with non-state entities such as cities, counties, regional planning councils, water management districts, school districts, and other educational entities for the provision of Administrative Law Judge services. The Division executed a contract with the Florida Legislature in late 2006, and the Division's judges are now hearing Florida Senate claim bills. Contract organizations reimburse the Division for the costs of its services at a rate that is based on a total-cost-recovery methodology.

The Division has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA's) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to non-state entities. This has been accomplished by revising each year the hourly rate that is paid by the non-state entities for Administrative Law Judge services, by marketing the Division's services to attract new non-state entities, and by backing out these revenues before the budget is prorated among the state agencies. The assessment for administrative support that is paid by the Workers' Compensation Appeals program is also backed

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out before the budget is prorated. Hence, state agency transfers have been reduced by about \$1 million in the Division's FY 2009-10 Legislative Budget Request. In the coming year, the Director and other members of the Division's staff will continue their efforts to solicit new contractual business from local government entities to further offset the cost of supporting the Division that is borne by our state agencies.

The Workers' Compensation Appeals program is supported by cash transfers from the Workers' Compensation Administration Trust Fund that is administered by the Department of Financial Services. This trust fund is funded through a workers' compensation premium tax assessment which supports the entire workers' compensation program, not just the appeals program administered by the Division.

RECOMMENDATIONS CONCERNING THE A.P.A.

The Division closely follows judicial decisions concerning the application and interpretation of the Administrative Procedure Act (A.P.A.). The Division clearly recognizes that it must remain fair and impartial in all matters affecting the agencies and private parties that come before it for adjudication of their disputes. However, pursuant to its statutory mandate in Subsection 120.65(10)(b), Florida Statutes, the Division is required to make recommendations for changes or

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improvements in the A.P.A. "or any agency's practice or policy with respect thereto." Further, Section 120.65, Florida Statutes, was amended in 2006 to require the Division to include recommendations as to the types of cases that should be conducted under the summary hearing process described in Section 120.574, Florida Statutes. § 120.65(10)(c), Fla. Stat. Finally, Section 120.65, Florida Statutes, was amended to require the Division's report to include information regarding each agency's compliance with the filing requirement in Subsection 120.57(1)(m), Florida Statutes.

This year, as in the past, bills have been filed in the Florida Senate and House of Representatives, which relate to providing administrative hearing rights at the Division to individuals who are aggrieved by certain agency actions. In the past year, the Division had new types of cases added to those within its jurisdiction. The Division will now hear cases concerning individuals who were wrongfully incarcerated, challenges to proposed state action concerning phosphate mines and reclamation, expedited hearings for insurance company rate filings, and the continued involuntary placement of inmates in mental health facilities. Additionally, the health care certificate of need process has been streamlined and expedited to ensure that needed health care services and facilities, if

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approved, will be developed and constructed in a more timely fashion. The Division continues to perform Special Master duties under contract with the Florida Senate, and the Administrative Law Judges assigned to hear legislative claim bills will be called upon to support their decisions before the appropriate Senate committee. The Division has taken on these new matters without the addition of new judges or support staff. In fact, during the 2009 Special Session, the Division had one vacant Administrative Law Judge position eliminated, but does not expect any reduction in the timeliness of hearings conducted and orders issued.

The summary hearing process set forth in Section 120.574, Florida Statutes, has been selected by agencies and private parties only in rare instances since its enactment in 1998. In fact, to date, fewer than 20 cases have been heard by the Division under this Section. Once again, we will note that if certain regulatory agencies, namely, those responsible for the prosecution of licensure disciplinary matters, such as the Department of Business and Professional Regulation and the Department of Health, were to refer their "misdemeanor" cases (those where the only penalty sought is an administrative fine) into the summary hearing process, the Division could assist with any backlog these agencies currently experience with respect to

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these cases. Also, if the minor infraction cases were referred to the Division for prompt adjudication, the regulatory agencies could concentrate their efforts (and precious meeting time for the volunteer members of the professional licensing boards) on the more serious matters which pose a threat to the health, safety, and welfare of the citizens of Florida. The Division could handle these additional summary matters with its current complement of judges and support staff. Another complement of cases currently referred to the Division, Medicaid waiver matters from the Agency for Persons with Disabilities, may be compatible with the summary hearing process. The majority of these matters involve little, if any, discovery; are set for hearing on an expedited basis; and involve claims by individuals who need a rapid determination of their entitlement, or continued entitlement, to health care benefits. Additionally, these matters generally involve limited records and post-hearing submissions by the parties. Since the Division currently handles these matters with its existing personnel, no additional staffing would be required to move these matters into the summary hearing process.

Pursuant to the requirement contained in Subsection 120.65(10)(d), Florida Statutes, many agencies have improved the timeliness of filing their final orders with the Division. In

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this past fiscal year, seven of the 17 reported agencies employing the services of the Division have completely or substantially complied with the 15-day filing requirement (Agency for Persons with Disabilities, Florida Commission on Human Relations, Florida Elections Commission, Department of Children and Family Services, Department of Financial Services, District School Boards, and Contract Cases). Overall, of the agency final orders filed with the Division between July 1, 2007, and June 30, 2008, 57 percent were filed within 15 days of entry by the agency. The Division once again intends to remind the agencies of the statutory requirement to timely file their final orders. The ability to file these final orders electronically makes the task a simple one for the agencies.

Finally, in 2008, the Legislature designated the Division as an alternative for agencies who seek help in indexing their final orders pursuant to Subsection 120.53(1)(a)2.b., Florida Statutes. Agencies may now designate the Division to keep, in an electronic format, all of their final orders and make those orders available to the public in a searchable database. Several agencies are now in the process of electronically transmitting these orders to the Division, which will publish them on its website for public use. As more agencies take advantage of this service, the Division may have to increase its data storage capabilities.

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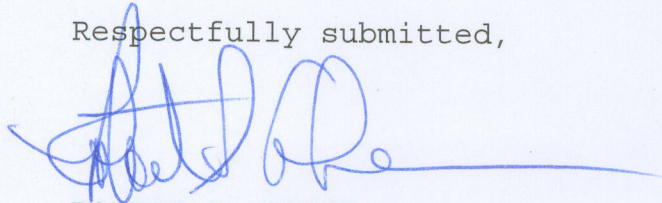
CONCLUSION

The Division continues to supply high-quality adjudication of disputes pursuant to Chapter 120, the Administrative Procedure Act, despite an increase of three percent in its caseload. The Division constantly seeks ways to make the process more affordable to state agencies and citizens, and continues to expand its base to counties, cities, and other users of its program in order to reduce the cost of providing services. In the coming year, the Division will continue to focus its efforts on improved technology in order to streamline the electronic filing of all matters before it, as well as to improve access to the public for research, for order preparation, and for archiving purposes. Through the elimination of programs that prove not to be cost-effective; through the elimination of personnel no longer needed in the face of improved technology; through promoting alternative dispute resolution short of hearing; and through encouraging agencies to take advantage of the summary hearing process, and to increase the number of non-state agencies contracting for the Division's services, the Division contributes to the goal of efficient government. We accomplish this without sacrificing quality and fairness in the Adjudication of Disputes program,

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and intend to accomplish our goals without requesting additional funding from the Legislature.

Respectfully submitted,



ROBERT S. COHEN
Director and Chief Judge

RSC/lds

6/30/2008

Appendix 1

HEARING HOURS HELD REPORT

FY 2007-2008

For the Period 07/01/07 through 6/30/2008

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	PRORATED AMOUNT OF FY 2009-10 LBR
AHCA	6.75	31.00	576.00	613.75	15.51441%	\$1,217,012
AGR	0.50	4.50	42.50	47.50	1.20071%	\$94,188
APD	6.75	15.00	414.00	435.75	11.01491%	\$864,053
AWI	0.00	1.25	0.00	1.25	0.03160%	\$2,479
DPBR	3.00	9.00	167.75	179.75	4.54373%	\$356,428
DCF	1.75	2.75	176.25	180.75	4.56901%	\$358,411
CTT	0.00	0.00	0.00	0.00	0.00000%	\$0
DCA	2.75	13.00	213.50	229.25	5.79499%	\$454,582
COR	0.00	0.50	24.50	25.00	0.63195%	\$49,573
DOE	1.25	5.25	139.50	146.00	3.69060%	\$289,505
EIDER	0.00	0.00	0.00	0.00	0.00000%	\$0
DEP	4.75	15.75	169.25	189.75	4.79651%	\$376,257
ETH	0.00	3.75	21.75	25.50	0.64459%	\$50,564
FEC	0.75	10.00	0.00	10.75	0.27174%	\$21,316
FWCC	0.50	0.00	14.00	14.50	0.36653%	\$28,752
GOV	0.00	0.25	11.75	12.00	0.30334%	\$23,795
DMA	0.25	0.00	1.50	1.75	0.04424%	\$3,470
DOH	4.25	22.00	139.25	165.50	4.18352%	\$328,172
HSM	3.00	4.75	63.25	71.00	1.79474%	\$140,787
DFS	7.25	35.75	202.50	245.50	6.20576%	\$486,804
JUV	0.75	0.25	15.25	16.25	0.41077%	\$32,222
DLE	0.50	4.00	34.25	38.75	0.97952%	\$76,838
DIA	0.00	0.00	0.00	0.00	0.00000%	\$0
LOT	0.00	0.00	0.00	0.00	0.00000%	\$0
DMS	8.50	15.25	381.00	404.75	10.23129%	\$802,583
PSC	0.00	0.00	0.00	0.00	0.00000%	\$0
REV	1.00	2.50	838.50	842.00	21.28413%	\$1,669,610
DOS	0.25	0.00	1.00	1.25	0.03160%	\$2,479
DOT	1.00	4.75	52.00	57.75	1.45981%	\$114,513
VET	0.00	0.00	0.00	0.00	0.00000%	\$0
TOTAL:	55.50	201.25	3699.25	3956.00	100.00000%	\$7,844,393

NOTE: Hearing hours held in contract cases (water management districts, regional planning councils, cities, counties, school district/educational entity cases, etc.), NICA cases, and other miscellaneous cases are reported separately.

*Prior to prorating among state agencies, DOAH's FY 2009-10 Legislative Budget Request totaling \$8,877,077 was adjusted to reflect estimated revenue of \$463,342 from contract entities, payment of \$576,215 from the Workers' Compensation Appeals Program for general management and administrative services costs, estimated revenue of \$71,155 from cases filed pursuant to Chapter 403, Florida Statutes, and the estimated non-operating cost of \$78,028 for state agency video teleconferencing hearings.

6/30/2008

Appendix 1

HEARING HOURS HELD BY CONTRACT/EDUCATIONAL/OTHER AGENCIES

FY 2007-2008

For the Period 07/01/07 through 6/30/08

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF HOURS ALL AGENCIES
CONTRACT					
EPP	3.75	8.50	318.00	330.25	6.51381%
TL	0.25	0.50	3.50	4.25	0.08383%
NICA	0.00	2.25	132.50	134.75	2.65779%
OTHER	4.50	8.25	22.25	35.00	0.69034%
SENATE CLAIM	0.00	0.00	0.75	0.75	0.01479%
SCHBDS	5.00	0.00	29.75	34.75	0.68540%
	54.75	33.50	486.00	574.25	11.32643%
TOTAL:	68.25	53.00	992.75	1114.00	21.97239%

CONTRACT: Water Management Districts, Regional Planning Councils, Cities, Counties, etc., as specified in Subsection 120.65(11), F.S.

EPP: Cases filed by DEP, pursuant to Chapter 403, Florida Statutes.

TL: Transmission line siting cases filed by DEP, pursuant to Chapter 403, Florida Statutes.

NICA: Florida Birth-Related Neurological Injury Compensation Association.

OTHER: Noncontract entities such as Pinellas County Construction Licensing Board

SENATE CLAIM BILLS: Excess judgment claims and equitable claims, pursuant to Senate Rules 4.81

SCHBDS: School boards and other educational entities specified in Subsection 120.65(11), F.S.

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2007 - 2008

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	0	2	2
Bureau of Compliance and Monitoring	2	0	2
Bureau of License and Bond	2	4	6
Office of Citrus License and Bond	1	3	4
Division of Consumer Services	3	2	5
Division of Food and Safety	3	4	7
Division of Standards	2	2	4
Bureau of Entomology and Pest Control	6	5	11
Division of Licensing	4	2	6
Agency Total	23	24	47
Agency for Persons with Disabilities			
Agency for Persons with Disabilities	6	13	19
Medicaid Waiver Benefits (Attorney General referral)	204	154	358
Medicaid Waiver Benefits (DCFS referral)	14	11	25
Medicaid Waiver Benefits (APD referral)	96	31	127
Agency Total	320	209	529
Agency for Workforce Innovation			
Agency for Workforce Innovation	1	1	2
Agency Total	1	1	2
Department of Children and Family Services			
Department of Children and Family Services	1	3	4
Developmental Disabilities	1	0	1
Exemption Ch. 435, position of special trust	26	25	51
Family Safety and Preservation Programs	7	19	26
Office of Human Resources Management	2	4	6
Office of Licensure and Certification	31	7	38
Non-Baker Act Total	68	58	126
Contract Hearings			
Bradford County	0	1	1
Claim Bill (Senate)	28	1	29
City of Cape Coral	1	0	1
City of Clearwater	0	1	1
City of Gainesville	0	1	1
Code Enforcement	0	1	1
City of Tallahassee	1	0	1
Hillsborough County	1	2	3
Leon County	1	0	1
Monroe County	1	1	2
Pinellas County Sheriff's Civil Service Board	0	2	2
Pinellas County	4	3	7
Walnut Creek Community Development District	2	0	2
Agency Total	39	13	52
Commissions			
Commissions	1	0	1
Commission for the Transportation Disadvantaged	0	1	1
Florida Commission on Ethics	3	10	13
Florida Commission on Human Relations	80	116	196
FCHR, Fair Housing Act	11	12	23
Florida Elections Commission	13	7	20

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2007 - 2008

AGENCY	Jul-Dec	Jan-June	TOTAL
Hillsborough County Public Transportation Commissi	0	1	1
Agency Total	108	147	255
Department of Corrections			
Department of Corrections	1	2	3
Agency Total	1	2	3
County School Boards			
Alachua County School Board	1	1	2
Bay County School Board	0	1	1
Brevard County School Board	2	2	4
Broward County School Board	7	21	28
Clay County School Board	2	2	4
Miami-Dade County School Board	31	29	60
Duval County School Board	2	3	5
Escambia County School Board	1	1	2
Flagler County School Board	0	3	3
Gulf County School Board	1	0	1
Hernando County School Board	0	1	1
Hillsborough County School Board	1	5	6
Indian River County School Board	1	0	1
Lake County School Board	1	1	2
Lee County School Board	1	0	1
Leon County School Board	0	1	1
Manatee County School Board	0	4	4
Marion County School Board	3	10	13
Martin County School Board	0	2	2
Nassau County School Board	2	1	3
Okaloosa County School Board	1	0	1
Orange County School Board	0	4	4
Osceola County School Board	0	1	1
Palm Beach County School Board	4	10	14
Section 504 cases	2	1	3
Pasco County School Board	0	1	1
Pinellas County School Board	2	2	4
Polk County School Board	1	1	2
St Johns County School Board	1	3	4
Sarasota County School Board	4	2	6
Seminole County School Board	2	4	6
Volusia County School Board	1	1	2
School for the Deaf and Blind	1	2	3
Teacher Termination or Suspension	21	32	53
Agency Total	96	152	248
Department of Community Affairs			
Department of Community Affairs	33	39	72
Florida Building Commission	2	0	2
Florida Housing Finance Corporation	1	8	9
Small Scale Comprehensive Plan Amendment	3	1	4
Agency Total	39	48	87
Department of Elder Affairs			
Department of Elder Affairs	2	1	3
Agency Total	2	1	3

**ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2007 - 2008**

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Environmental Protection			
Department of Environmental Protection	61	50	111
Agency Total	61	50	111
Department of Financial Services			
Department of Financial Services	5	3	8
Division of Insurance Agents and Agencies Services	35	29	64
Bureau of Unclaimed Property	4	0	4
Division of State Fire Marshal	4	4	8
Division of Funeral, Cemetery, and Consumer Service	1	2	3
Neurological Injury	19	13	32
Division of Workers' Compensation	43	30	73
Agency Total	111	81	192
Department of Health			
Department of Health	0	3	3
Bureau of Testing Services	1	1	2
Bureau of Water Programs	0	1	1
Board of Chiropractic	12	4	16
Clinical Laboratory Personnel	0	1	1
Board of Clinical Social Work, Marriage and Family	2	1	3
Division of Children's Medical Services	0	1	1
Board of Dentistry	6	8	14
Drugs, Devices, and Cosmetics Program	0	2	2
Environmental Health	3	2	5
Bureau of Emergency Medical Services	1	2	3
Board of Medicine	29	30	59
Board of Massage Therapy	0	1	1
Board of Nursing	6	15	21
Bureau of Radiation Control	1	0	1
Board of Optometry	1	0	1
Board of Osteopathic Medicine	7	4	11
Board of Pharmacy	6	16	22
Board of Podiatric Medicine	1	0	1
Board of Psychology	1	2	3
Board of Physical Therapy Practice	3	0	3
Agency Total	80	94	174
Department of Juvenile Justice			
Department of Juvenile Justice	6	7	13
Agency Total	6	7	13
Department of Law Enforcement			
Department of Law Enforcement	4	0	4
Criminal Justice Standards and Training Commission	35	13	48
Medical Examiners Commission	1	0	1
Agency Total	40	13	53
Department of Military Affairs			
Department of Military Affairs	1	1	2
Agency Total	1	1	2
Department of Management Services			
Department of Management Services	3	0	3

**ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2007 - 2008**

AGENCY	Jul-Dec	Jan-June	TOTAL
Career Service Commission	2	0	2
Division of State Group Insurance	8	5	13
Division of Retirement	10	8	18
Agency Total	23	13	36
Department of Education			
Department of Education	0	5	5
Education Practices Commission	53	38	91
Vocational Rehabilitation Services	24	19	43
Agency Total	77	62	139
Department of State			
Division of Elections	1	0	1
Agency Total	1	0	1
Department of Transportation			
Department of Transportation	27	18	45
Agency Total	27	18	45
Department of Business and Professional Regulation			
Department of Business and Professional Regulation	3	0	3
Board of Accountancy	0	1	1
Board of Architecture	5	3	8
Board of Auctioneers	0	1	1
Building Code Administrators and Inspectors	0	3	3
Regulatory Council of Community Assoc. of Managers	1	1	2
Construction Industry Licensing Board	60	112	172
Board of Cosmetology	2	0	2
Division of Alcoholic Beverages and Tobacco	35	51	86
Division of Real Estate	6	13	19
Electrical Contractors	0	1	1
Florida Real Estate Appraisal Board	1	1	2
Florida Real Estate Commission	4	2	6
Division of Hotels and Restaurants	66	42	108
Board of Professional Surveyors and Mappers	1	1	2
Non-licensed Respondent	44	30	74
Board of Pilot Commissioners	1	0	1
Division of Pari-Mutuel Wagering	3	4	7
Board of Professional Engineers	2	6	8
State Boxing Commission	1	0	1
Board of Veterinary Medicine	0	1	1
Agency Total	235	273	508
Florida State University Schools			
Pembroke Pines Florida State University Schools	1	0	1
Agency Total	1	0	1
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	1	4	5
Agency Total	1	4	5
Office of the Governor			
Florida Land and Water Adjudicatory Commission	4	0	4
Florida Land and Water Adjudicatory Commission, Co	2	1	3

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2007 - 2008

AGENCY	Jul-Dec	Jan-June	TOTAL
Agency Total	6	1	7
Agency for Health Care Administration			
Agency for Health Care Administration	8	6	14
Audit Quality Control Services	2	5	7
Bureau of Managed Care	25	24	49
Office of Certificate of Need	17	13	30
Bureau of Health Facility Regulation	4	1	5
Medicaid Cost Reimbursement	5	33	38
Medicaid Program Integrity	14	19	33
Office of Licensure and Certification	67	93	160
Agency Total	142	194	336
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	9	7	16
Section 320.642	35	29	64
Agency Total	44	36	80
Medical Arbitration			
Medical Arbitration	6	7	13
Agency Total	6	7	13
No Agency			
Construction Mining	0	1	1
Agency Total	0	1	1
Office of Financial Regulation			
Office of Financial Regulation	7	7	14
Agency Total	7	7	14
Office of Insurance Regulation			
Office of Insurance Regulation	17	8	25
Agency Total	17	8	25
Department of Revenue			
Department of Revenue	12	11	23
Child Support Enforcement (payment, lien, levy)	2	4	6
Child Support Enforcement Program	474	670	1,144
Agency Total	488	685	1,173
Self-contained Agencies			
Pinellas County Construction Licensing Board	1	1	2
Agency Total	1	1	2
Universities and Colleges			
Florida A & M University	0	1	1
University of Florida	0	1	1
Agency Total	0	2	2
Water Management Districts			
South Florida Water Management District	1	7	8
St. Johns River Water Management District	5	11	16
Suwannee River Water Management District	1	0	1
Southwest Florida Water Management District	7	5	12

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2007 - 2008

AGENCY	Jul-Dec	Jan-June	TOTAL
Agency Total	14	23	37
NON BAKER ACT TOTAL	2,086	2,236	4,322
Baker Acts			
Department of Veterans Affairs	2	0	2
Florida State Hospital	136	89	225
Lake Correctional Institution	14	10	24
Lakeside Behavioral Healthcare	1	0	1
Manatee Glens	0	2	2
Mental Health Care, Inc.	0	1	1
Meridian Behavioral Healthcare, Inc.	1	0	1
Northeast Florida State Hospital	448	412	860
Northside Mental Health Center	3	3	6
Peace River Center	4	6	10
Personal Enrichment Mental Health Services	0	3	3
Shands at the University of Florida	2	2	4
Shands at Vista	3	0	3
South Florida State Hospital	248	270	518
Tampa General Hospital	0	2	2
West Florida Community Care Center	32	29	61
Baker Act Total	894	829	1,723

SUMMARY
Division of Administrative Hearings
Actual, Estimated and Requested Expenditures

Adjudication of Disputes^(a)

<u>Appropriation Category</u>	<u>Actual Expenditures FY 2007-08</u>	<u>Estimated Expenditures FY 2008-09^(a)</u>	<u>Requested Expenditures FY 2009-10^(a)</u>
Salaries and Benefits	\$7,295,563	\$7,109,949	\$7,172,153
Other Personal Services	0	36,391	36,391
Expenses	1,242,250	1,145,935	1,150,654
Operating Capital Outlay	142,183	65,000	127,804
Special Categories			
Contracted Services	194,086	195,475	199,475
Risk Mgmt. Ins.	14,174	51,305	51,305
TR/DMS/HR SVCS	27,482	27,482	27,482
Total Program Budget	<u>\$8,915,738</u>	<u>\$8,631,537</u>	<u>\$8,765,264</u>
Total Program Positions	69	68	68

Workers' Compensation Appeals

<u>Appropriation Category</u>	<u>Actual Expenditures FY 2007-08</u>	<u>Estimated Expenditures FY 2008-09</u>	<u>Requested Expenditures FY 2009-10</u>
Salaries and Benefits	\$13,501,354	\$13,438,447	\$14,245,012
Other Personal Services	75,440	230,000	230,000
Expenses	3,451,669	3,270,218	3,274,936
Operating Capital Outlay	51,004	28,796	91,601
Fixed Capital Outlay	1,154,914	0	0
Special Categories			
Contracted Services	1,066,748	1,136,549	1,140,549
Contracted Legal Svcs.	3	2,500	2,500
Risk Mgmt. Ins.	90,972	66,758	66,758
TR/DMS/HR SVCS	80,066	80,066	80,066
Total Program Budget	<u>\$19,472,170</u>	<u>\$18,253,334</u>	<u>\$19,131,422</u>
Total Program Positions	198	198	198

TOTAL DIVISION BUDGET	<u>\$28,387,908</u>	<u>\$26,884,871</u>	<u>\$27,896,686</u>
TOTAL DIVISION POSITIONS	267	266	266

^(a) Adjusted to include budget reductions adopted during Special Session 2009-A.

2009 DOAH ANNUAL REPORT

#: 36

PERIOD: *July 1, 2008 - June 30, 2009*

DATE: February 1, 2010

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Robert S. Cohen, Chief Judge

PAGES: 28

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2009



DIVISION OF ADMINISTRATIVE HEARINGS



February 1, 2010

THIRTY-SIXTH ANNUAL REPORT

Division of Administrative Hearings
Thirty-Sixth Annual Report

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**Division of Administrative Hearings
Thirty-Sixth Annual Report**

This report is submitted to the Joint Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of Subsection 120.65(10), Florida Statutes, which provides:

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.

(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).

GENERAL

The Division of Administrative Hearings administers two programs. One, which is the subject of this report, is the Adjudication of Disputes program that operates pursuant to Chapter 120, Florida Statutes. The other is the Workers' Compensation Appeals program, Office of the Judges of Compensation Claims (OJCC), which operates pursuant to Chapter

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440, Florida Statutes. Subsection 440.45(5), Florida Statutes, requires the OJCC to issue an annual report to the Governor, the House of Representatives, the Senate, The Florida Bar, and the statewide nominating commission. This report was submitted on November 18, 2009. Accordingly, the present report will focus primarily on the Adjudication of Disputes program. However, because the headquarters element of the Division must support both programs, this report necessarily must include some information addressing the OJCC.

UTILIZATION RATES

Appendix I breaks out by agency the utilization rates of Division resources and demonstrates, in descending order, that 12 agencies utilized 94 percent of the Division's docket: the Department of Revenue, the Department of Management Services, the Department of Environmental Protection, the Agency for Health Care Administration, the Department of Financial Services, the Department of Community Affairs, the Agency for Persons with Disabilities, the Department of Business and Professional Regulation, the Department of Education, the Department of Children and Family Services, the Department of Highway Safety and Motor Vehicles, and the Department of Health. Additionally, entities such as water management districts, cities, counties, school districts, and other educational entities, are significant users of the Division's services and

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are reported separately since they are covered by contractual agreements.

During FY 2008-2009, state agency and other governmental entity referrals increased by 12 percent with 6,758 requests for assignment of Administrative Law Judges, compared to 6,045 requests filed the previous fiscal year. Requests for assignment of Administrative Law Judges from the following six agencies constitute 41 percent of our fiscal year caseload: the Department of Revenue (2,038 cases, a 74 percent increase over the 1,173 cases filed in FY 2007-2008), the Department of Education (206 cases, a 48 percent increase over the 139 cases filed in FY 2007-2008), the Department of Financial Services (226 cases, an 18 percent increase over the 192 cases in FY 2007-2008), the Department of Environmental Protection (117 cases, a 5 percent increase over the 111 cases filed in FY 2007-2008), the Department of Highway Safety and Motor Vehicles (196 cases, a 145 percent increase over the 80 cases filed in FY 2007-2008), and the Department of Juvenile Justice (15 cases, a 15 percent increase over the 13 cases filed in FY 2007-2008).

UTILIZATION OF PERSONNEL

As of June 30, 2009, the Adjudication of Disputes program had 68 established positions comprising the Director and Chief Judge, the Deputy Chief Judge, 33 Administrative Law Judges, seven Administrative Secretaries, six Administrative Assistants,

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one Budget Officer, one Executive Assistant, three Staff Assistants, one Administrative Services Director, one Personnel Officer, one Purchasing Agent, one Accountant Supervisor, one Database Administrator, one Office Automation Specialist, one Distributed Computer Systems Analyst, one Systems Programmer, one Clerk of the Division, one Commission Deputy Clerk, one Deputy Clerk Supervisor, two Deputy Clerks, and two Senior Clerks. With one Administrative Secretary or Administrative Assistant assigned to three judges, this represents a highly efficient model for the adjudicatory process. Our judges utilize a minimum of administrative personnel to perform their assigned tasks.

The Workers' Compensation Appeals program had 198 established positions comprising one Deputy Chief Judge of Compensation Claims, 32 Judges of Compensation Claims, 32 General Masters (mediators), 32 Executive Secretaries, 36 Deputy Clerks (32 in field offices and four in central Clerk's Office), two Deputy Clerk Supervisors, eight Commission Deputy Clerks, five Administrative Assistants, one Staff Assistant, 31 Administrative Secretaries, ten Secretary Specialists, one Senior Clerk, one Senior Management Analyst, two Accountants, one Distributed Computer Systems Administrator, one Distributed Computer Systems Analyst, one Distributed Computer Systems Specialist and one Senior Attorney. In an extremely high-volume

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area of the law, the program constantly seeks ways to combine staff positions and responsibilities in the interest of cost savings.

HEARING REQUESTS

During FY 2008-09, the Division processed 6,758 hearing requests compared to 6,045 cases filed the previous fiscal year. Of the total cases filed, 1,625 were Baker Act cases. The remaining 5,133 cases were primarily filed pursuant to Sections 120.56 and 120.569, and Subsection 120.57(1), Florida Statutes. Most notable were the referrals from the Department of Highway Safety and Motor Vehicles, which increased its referrals by 145 percent with 196 cases filed this fiscal year as compared to 80 cases previously reported. Other cases filed are itemized by agency in the attached Appendix 2.

In FY 2008-09, each Administrative Law Judge conducted an average of 163 hearings and wrote an average of 78 recommended or final orders of varying length and complexity. In addition, each Judge closed an average of 68 cases, which were settled or otherwise dismissed without a final hearing. The case closure data does not include Baker Act closures.

INFORMATION TECHNOLOGY

The Division maintains two mission-critical databases and applications: the DOAH Case Management System (CMS) and the OJCC Case Management System (JCC). Associated applications

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include full-text retrieval and document indexing of orders issued by the Division's Administrative Law Judges and Judges of Compensation Claims. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include word processing, electronic mail, and online legal research via LexisNexis and other Internet resources.

In 2009, the Division continued its implementation of the electronic-filing applications. For the OJCC, a total of 430,548 documents were electronically filed by practitioners. For the Adjudication of Disputes, 18,230 documents were electronically filed. The growth in the use of electronic filing, which, at this point, is voluntary since no statutory mandate exists, was due in large part to the efforts of Division staff and leadership in promoting the efficiencies of filing by electronic means. The Division is committed to continuing to promote the use of electronic services over traditional means of filing and serving documents. Electronic service of orders issued by the OJCC and by Administrative Law Judges has been implemented in all cases where the parties of record have provided email addresses to the Division. Online initiation of new cases has also been implemented. The savings to the users of electronic filing, in terms of paper, postage, and time, has already registered in the tens of thousands of dollars and will

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continue to grow as the technology is more widely accepted by users of the Division's services or becomes mandatory based upon statutory changes as discussed more fully below.

Under new provisions of Subsection 120.53(2)(a), Florida Statutes, all state agencies now have an option to electronically transmit their agency orders to the Division's website for indexing purposes. To date, two agencies (the Department of Agriculture and Consumer Services and the Department of Environmental Protection) have taken advantage of this new provision. Several additional agencies are considering using the Division to index and display via website their final agency orders.

OPERATING BUDGET

The Division is 100 percent trust funded. Appendix 3 summarizes the actual, estimated, and requested expenditures for the Division's programs for FY 2008-09, FY 2009-10, and FY 2010-11, respectively.

For the Adjudication of Disputes program, each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours conducted by its judges for all agencies. Based on this data, the Division's budget is prorated among the state agencies utilizing its services, and the Legislature appropriates fund transfers to the Division from those agencies. Hence, the amount each agency transfers to the

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Division is based on the amount of time the judges spend in pre-hearing conferences, motion hearings, and final hearings for each agency in a given year. Beginning in FY 2003-04, data on cancelled and continued hearings were excluded from the report under the theory that the agencies should not be penalized for encouraging the resolution of disputes short of proceeding to hearing. In October 2009, the Division submitted its twenty-third "Hearing Hours Held" report (see Appendix 1). In FY 2008-09, 5,603 hearing hours were held. (Appendix I excludes Baker Act hearing hours, which totaled 230 in FY 2008-09).

The Division is also authorized to enter into contracts with non-state entities such as cities, counties, regional planning councils, water management districts, school districts, and other educational entities for the provision of Administrative Law Judge services. The Division executed a contract with the Florida Legislature in late 2006, and the Division's judges are now hearing Florida Senate claim bills. Contract organizations reimburse the Division for the costs of its services at a rate that is based on a total-cost-recovery methodology.

The Division has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA's) recommendation to shift the burden of the cost of the

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Adjudication of Disputes program from state agencies to non-state entities. This has been accomplished by revising each year the hourly rate that is paid by the non-state entities for Administrative Law Judge services, by marketing the Division's services to attract new non-state entities, and by backing out these revenues before the budget is prorated among the state agencies. The assessment for administrative support that is paid by the Workers' Compensation Appeals program is also backed out before the budget is prorated. Hence, state agency transfers have been reduced by about \$1.2 million in the Division's FY 2010-11 Legislative Budget Request. In the coming year, the Director and other members of the Division's staff will continue their efforts to solicit new contractual business from local government entities to further offset the cost of supporting the Division that is borne by our state agencies.

The Workers' Compensation Appeals program is supported by cash transfers from the Workers' Compensation Administration Trust Fund that is administered by the Department of Financial Services. This trust fund is funded through a workers' compensation premium tax assessment which supports the entire workers' compensation program, not just the appeals program administered by the Division.

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RECOMMENDATIONS CONCERNING THE A.P.A.

The Division closely follows judicial decisions concerning the application and interpretation of the Administrative Procedure Act (A.P.A.). The Division clearly recognizes that it must remain fair and impartial in all matters affecting the agencies and private parties that come before it for adjudication of their disputes. However, pursuant to its statutory mandate in Subsection 120.65(10)(b), Florida Statutes, the Division is required to make recommendations for changes or improvements in the A.P.A. "or any agency's practice or policy with respect thereto." Further, Section 120.65, Florida Statutes, was amended in 2006 to require the Division to include recommendations as to the types of cases that should be conducted under the summary hearing process described in Section 120.574, Florida Statutes. § 120.65(10)(c), Fla. Stat. Finally, Section 120.65, Florida Statutes, was amended to require the Division's report to include information regarding each agency's compliance with the filing requirement in Subsection 120.57(1)(m), Florida Statutes.

This year, as in the past, bills have been filed in the Florida Senate and House of Representatives, which relate to providing administrative hearing rights at the Division to individuals who are aggrieved by certain agency actions. In the past year, the Division had new types of cases added to those

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within its jurisdiction. The Division will now hear cases concerning individuals who were wrongfully incarcerated, challenges to proposed state action concerning phosphate mines and reclamation, expedited hearings for insurance company rate filings, and the continued involuntary placement of inmates in mental health facilities. Additionally, the health care certificate of need process has been streamlined and expedited to ensure that needed health care services and facilities, if approved, will be developed and constructed in a more timely fashion. The Division continues to perform Special Master duties under contract with the Florida Senate, and the Administrative Law Judges assigned to hear legislative claim bills will be called upon to support their decisions before the appropriate Senate committees. The Division has taken on these new matters without the addition of new judges or support staff. In fact, during the 2009 Special Session, the Division had one vacant Administrative Law Judge position eliminated, but does not expect any reduction in the timeliness of hearings conducted and orders issued.

Most notably this year, legislation has been proposed in the Senate, and has been discussed at the committee level in the House, to make the electronic filing provisions contained both in Chapter 120 and Chapter 440, Florida Statutes, mandatory. As noted above, the Division has experienced immense growth in the

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use of filing of pleadings, orders, and other documents by electronic means under a purely voluntary system. Under the current system, registered users of the electronic filing program realize the efficiencies and savings afforded by not using the mail, both regular and overnight, courier services to file papers with the Division, copying charges and materials, and staff time to carry out each of these functions. If the system is made mandatory, not only will the Division save additionally, but the users of the system will realize great savings in time, effort, and the cost of materials and staff. Moreover, electronic filing will allow all filed pleadings to be made available immediately on the Division's website for use by the public, thereby adding to the transparency of the work performed by the Division. Realizing that not everyone has access to a computer, the proposed legislation will carve out an exception to the requirement of electronic filing for those unable to gain reasonable access to a computer for filing documents.

The summary hearing process set forth in Section 120.574, Florida Statutes, has been selected by agencies and private parties only in rare instances since its enactment in 1998. In fact, to date, fewer than 20 cases have been heard by the Division under this Section. As we have done numerous times in the past, we will again note that if certain regulatory

Division of Administrative Hearings
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agencies, namely, those responsible for the prosecution of licensure disciplinary matters, such as the Department of Business and Professional Regulation and the Department of Health, were to refer their "misdemeanor" cases (those where the only penalty sought is an administrative fine) into the summary hearing process, the Division could assist with any backlog these agencies currently experience with respect to these cases. Also, if the minor infraction cases were referred to the Division for prompt adjudication, the regulatory agencies could concentrate their efforts (and precious meeting time for the volunteer members of the professional licensing boards) on the more serious matters which pose a threat to the health, safety, and welfare of the citizens of Florida. The Division could handle these additional summary matters with its current complement of judges and support staff.

Another complement of cases currently referred to the Division, Medicaid waiver matters from the Agency for Persons with Disabilities, may be compatible with the summary hearing process. The majority of these matters involve little, if any, discovery; are set for hearing on an expedited basis; and involve claims by individuals who need a rapid determination of their entitlement, or continued entitlement, to health care benefits. Additionally, these matters generally involve limited records and post-hearing submissions by the parties. Since the

**Division of Administrative Hearings
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Division currently handles these matters with its existing personnel, no additional staffing would be required to move these matters into the summary hearing process. Even if these matters do not become part of the summary hearing process, we will continue to devise ways to schedule multiple matters for hearing in single locations in order to maximize the use of our judges and to minimize travel expenditures.

In 2009, the Division was able for the first time to offer video-teleconferencing capabilities in each of its 17 district offices around the state, as well as in the central offices in Tallahassee. This has resulted in tremendous cost and time savings since the judges assigned to cases outside Tallahassee are able to conduct many of these cases via video. This allows judges to maximize their time in the office rather than on the road traveling from city to city, which results in greater timeliness in the issuance of the detailed orders required in administrative hearings. The video teleconferencing technology has developed to the point where many attorneys prefer its use to the live hearing since multiple sites may be linked for a single hearing, allowing, for example, the judge and agency representatives to be in Tallahassee, the party involved in the hearing to be in Ft. Lauderdale, and maybe even a witness to appear in Orlando rather than having to travel to one of the other sites.

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In addition to the use of video teleconferencing for hearings, video teleconferencing has become an invaluable training tool, allowing us to connect multiple cities to our trainers in Tallahassee rather than sending people on the road to perform in-service training. Finally, we have recently begun use of the video teleconferencing for workshops related to the updating and amendment of our workers' compensation rules. Attorneys in Jacksonville, Orlando, Tampa, and Ft. Lauderdale, all were able to participate in rules workshops on the same day without having to leave their hometowns, a considerable savings in terms of time and resources. The result was significantly increased participation by the local attorneys and employer/carriers in the rulemaking process.

Pursuant to the requirement contained in Subsection 120.65(10)(d), Florida Statutes, many agencies have improved the timeliness of filing their final orders with the Division. In this past fiscal year, seven of the 17 reported agencies employing the services of the Division have completely or substantially complied with the 15-day filing requirement (Department of Education, Department of Environmental Protection, Department of Financial Services, Department of Health, Department of Highway Safety and Motor Vehicles, Department of Juvenile Justice, and Department of Transportation). Overall, of the agency final orders filed with

**Division of Administrative Hearings
Thirty-Sixth Annual Report**

the Division between July 1, 2008, and June 30, 2009, 72 percent were filed within 15 days of entry by the agency. The Division once again intends to remind the agencies of the statutory requirement to timely file their final orders. The ability to file these final orders electronically makes the task a simple one for the agencies.

Finally, in 2008, the Legislature designated the Division as an alternative for agencies who seek help in indexing their final orders pursuant to Subsection 120.53(1)(a)2.b., Florida Statutes. Agencies may now designate the Division to keep, in an electronic format, all of their final orders and make those orders available to the public in a searchable database. Two agencies, the Department of Agriculture and Consumer Services and the Department of Environmental Protection have already taken advantage of this service, and several agencies are now in the process of electronically transmitting these orders to the Division, which will publish them on its website for public use. As more agencies take advantage of this service, the Division may have to increase its data storage capabilities.

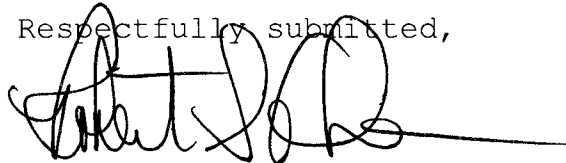
CONCLUSION

The Division continues to supply high-quality adjudication of disputes pursuant to Chapter 120, the Administrative Procedure Act, despite an increase of three percent in its caseload. The Division constantly seeks ways to make the

Division of Administrative Hearings
Thirty-Sixth Annual Report

process more affordable to state agencies and citizens, and continues to expand its base to counties, cities, and other users of its program in order to reduce the cost of providing services. In the coming year, the Division will continue to focus its efforts on improved technology in order to streamline the electronic filing of all matters before it, as well as to improve access to the public for research, for order preparation, and for archiving purposes. Through the elimination of programs that prove not to be cost-effective; through the elimination of personnel no longer needed in the face of improved technology; through promoting alternative dispute resolution short of hearing; and through encouraging agencies to take advantage of the summary hearing process, and to increase the number of non-state agencies contracting for the Division's services, the Division contributes to the goal of efficient government. We accomplish this without sacrificing quality and fairness in the Adjudication of Disputes program, and intend to accomplish our goals without requesting additional funding from the Legislature.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Robert S. Cohen', with a long horizontal flourish extending to the right.

ROBERT S. COHEN
Director and Chief Judge

RSC/ljs

6/30/2009

Appendix 1

HEARING HOURS HELD REPORT

FY 2008-2009

For the Period 07/01/08 through 6/30/2009

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	PRORATED AMOUNT OF FY 2010-11 LEGISLATIVE BUDGET REQUEST*
AHCA	5.75	24.25	268.75	298.75	6.93155%	\$508,253
AGR	1.25	1.25	43.25	45.75	1.06148%	\$77,833
APD	8.00	9.00	211.25	228.25	5.29582%	\$388,314
AWI	0.00	0.00	11.00	11.00	0.25522%	\$18,714
DPBR	3.25	8.25	213.50	225.00	5.22042%	\$382,785
DCF	1.75	4.00	118.50	124.25	2.88283%	\$211,382
CIT	0.00	0.00	0.00	0.00	0.00000%	\$0
DCA	2.50	2.75	257.25	262.50	6.09049%	\$446,582
COR	0.00	0.75	13.00	13.75	0.31903%	\$23,392
DOE	3.00	6.00	157.00	166.00	3.85151%	\$282,410
ELDER	0.00	0.00	0.00	0.00	0.00000%	\$0
DEP	7.75	16.75	320.25	344.75	7.99884%	\$586,511
ETH	0.25	0.75	44.25	45.25	1.04988%	\$76,982
FEC	1.75	2.50	45.75	50.00	1.16009%	\$85,063
FWCC	0.50	0.00	12.25	12.75	0.29582%	\$21,691
GOV	0.00	0.00	0.50	0.50	0.01160%	\$851
DMA	0.00	0.00	4.50	4.50	0.10441%	\$7,656
DOH	1.25	11.25	98.25	110.75	2.56961%	\$188,415
HSN	1.50	4.75	105.75	112.00	2.59861%	\$190,542
DFS	12.00	27.50	247.00	286.50	6.64733%	\$487,413
JUV	0.25	0.50	8.75	9.50	0.22042%	\$16,162
DLE	0.50	1.25	15.75	17.50	0.40603%	\$29,772
DLA	0.00	0.00	0.00	0.00	0.00000%	\$0
LOT	0.00	0.00	0.00	0.00	0.00000%	\$0
DMS	8.75	23.25	476.00	508.00	11.78654%	\$864,243
PSC	0.00	0.00	0.00	0.00	0.00000%	\$0
REV	1.00	4.25	1384.25	1389.50	32.23898%	\$2,363,909
DOS	0.00	0.00	0.00	0.00	0.00000%	\$0
DOT	0.75	2.50	40.00	43.25	1.00348%	\$73,580
VET	0.00	0.00	0.00	0.00	0.00000%	\$0
TOTAL:	61.75	151.50	4096.75	4310.00	100.00000%	\$7,332,455

NOTE: Hearing hours held in contract cases (water management districts, regional planning councils, cities, counties, school district/educational entity cases, etc.), NICA cases, and other miscellaneous cases are reported separately.

*Prior to prorating among state agencies, DOAH's FY 2010-11 Legislative Budget Request totaling \$8,579,579 was adjusted to reflect estimated revenue of \$559,107 from contract entities, payment of \$599,947 from the Workers' Compensation Appeals Program for general management and administrative services costs, estimated revenue of \$165,000 from cases filed pursuant to Chapter 403, Florida Statutes, and the estimated nonoperating cost of \$76,930 for state agency video teleconferencing hearings.

6/30/2009

HEARING HOURS HELD BY CONTRACT/EDUCATIONAL/OTHER AGENCIES

Appendix 1

FY 2008-2009

For the Period 07/01/08 through 6/30/09

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF HOURS ALL AGENCIES
CONTRACT					
EPP	3.50	4.25	283.50	291.25	5.19857%
TL	0.00	0.00	40.00	40.00	0.71397%
NICA	0.25	0.00	15.00	15.25	0.27220%
OTHER	4.00	3.50	24.75	32.25	0.57564%
SENATE CLAIM	1.00	1.25	1.00	3.25	0.05801%
SCHBDS	6.25	0.00	39.00	45.25	0.80768%
	49.25	39.00	777.00	865.25	15.44400%
TOTAL:	64.25	48.00	1180.25	1292.50	23.07006%

CONTRACT: Water Management Districts, Regional Planning Councils, Cities, Counties, etc., as specified in Subsection 120.65(11), F.S.

EPP: Cases filed by DEP, pursuant to Chapter 403, Florida Statutes.

TL: Transmission line siting cases filed by DEP, pursuant to Chapter 403, Florida Statutes.

NICA: Florida Birth-Related Neurological Injury Compensation Association.

OTHER: Noncontract entities such as Pinellas County Construction Licensing Board and Victims of Wrongful Incarceration Compensation Act

SENATE CLAIM BILLS: Excess judgment claims and equitable claims, pursuant to Senate Rules 4.81

SCHBDS: School boards and other educational entities specified in Subsection 120.65(11), F.S.

**ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2008 - 2009**

AGENCY	Jul-Dec	Jan-June	TOTAL
Authorities			
South Florida Regional Transportation Authority	0	1	1
Agency Total	0	1	1
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	0	1	1
Bureau of License and Bond	7	6	13
Office of Citrus License and Bond	6	2	8
Division of Food and Safety	1	0	1
Division of Standards	1	1	2
Bureau of Entomology and Pest Control	2	1	3
Division of Licensing	2	0	2
Agency Total	19	11	30
Agency for Persons with Disabilities			
Agency for Persons with Disabilities	8	12	20
Medicaid Waiver Benefits (Attorney General referra	140	289	429
Medicaid Waiver Benefits (DCFS referral)	7	8	15
Medicaid Waiver Benefits (APD referral)	16	21	37
Agency Total	171	330	501
Agency for Workforce Innovation			
Agency for Workforce Innovation	1	0	1
Agency Total	1	0	1
Department of Children and Family Services			
Department of Children and Family Services	5	4	9
Adult Services Program	2	0	2
Exemption Ch. 435, position of special trust	13	11	24
Family Safety and Preservation Programs	14	25	39
Office of Human Resources Management	3	0	3
Office of Licensure and Certification	1	0	1
Non-Baker Act Total	38	40	78
Contract Hearings			
Alachua County	0	1	1
Claim Bill (Senate)	25	4	29
City of Cape Coral	0	1	1
City of Clearwater	1	0	1
City of Gainesville	0	3	3
City of Tallahassee	1	1	2
City of Tarpon Springs	0	1	1
Emerald Coast Utilities Authority	0	1	1
Fishhawk Community Development District	1	0	1
Hillsborough County	0	1	1
Pinellas County Sheriff's Civil Service Board	2	0	2
Pinellas County	0	2	2
Polk Co Supervisor of Elections	0	1	1
Agency Total	30	16	46
Commissions			
Florida Commission on Ethics	2	3	5
Florida Commission on Human Relations	98	96	194
FCHR, Fair Housing Act	23	23	46

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2008 - 2009

AGENCY	Jul-Dec	Jan-June	TOTAL
Florida Elections Commission	15	13	28
Hillsborough County Public Transportation Commissi	1	1	2
Agency Total	139	136	275
Department of Corrections			
Department of Corrections	0	3	3
Agency Total	0	3	3
County School Boards			
County School Boards	0	1	1
Alachua County School Board	1	0	1
Bay County School Board	2	0	2
Brevard County School Board	4	1	5
Broward County School Board	7	30	37
Clay County School Board	1	0	1
Collier County School Board	2	2	4
Miami-Dade County School Board	28	41	69
Duval County School Board	0	1	1
Escambia County School Board	3	0	3
Flagler County School Board	0	1	1
Glades County School Board	1	0	1
Hardee County School Board	1	0	1
Highlands County School Board	0	2	2
Hillsborough County School Board	3	2	5
Lake County School Board	2	0	2
Lee County School Board	2	4	6
Leon County School Board	0	1	1
Manatee County School Board	1	0	1
Marion County School Board	0	1	1
Martin County School Board	0	1	1
Orange County School Board	4	1	5
Palm Beach County School Board	2	5	7
Section 504 cases	0	1	1
Pasco County School Board	1	0	1
St Johns County School Board	1	3	4
St Lucie County School Board	2	1	3
Sarasota County School Board	2	0	2
Seminole County School Board	2	5	7
Volusia County School Board	1	0	1
Teacher Termination or Suspension	34	57	91
Agency Total	107	161	268
Department of Community Affairs			
Department of Community Affairs	35	40	75
Florida Building Commission	2	1	3
Florida Housing Finance Corporation	9	1	10
Small Scale Comprehensive Plan Amendment	1	3	4
Agency Total	47	45	92
Department of Environmental Protection			
Department of Environmental Protection	54	63	117
Agency Total	54	63	117
Department of Financial Services			
Department of Financial Services	2	1	3

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2008 - 2009

AGENCY	Jul-Dec	Jan-June	TOTAL
Division of Insurance Agents and Agencies Services	30	41	71
Division of State Fire Marshal	3	2	5
Division of Funeral, Cemetery, and Consumer Service	3	5	8
Financial Services Commission	1	0	1
Neurological Injury	20	13	33
Division of Workers' Compensation	41	64	105
Agency Total	100	126	226
Department of Health			
Department of Health	0	4	4
Board of Acupuncture	0	1	1
Bureau of Testing Services	0	1	1
Board of Chiropractic	2	3	5
Board of Clinical Social Work, Marriage and Family	3	2	5
Board of Dentistry	3	7	10
Drugs, Devices, and Cosmetics Program	9	8	17
Environmental Health	4	12	16
Board of Hearing Aid Specialists	2	0	2
Board of Medicine	23	13	36
Board of Massage Therapy	0	1	1
Board of Nursing	5	16	21
Board of Opticianry	1	0	1
Board of Optometry	1	2	3
Board of Osteopathic Medicine	1	0	1
Board of Pharmacy	5	0	5
Board of Podiatric Medicine	4	0	4
Board of Psychology	0	2	2
Board of Physical Therapy Practice	0	1	1
Agency Total	63	73	136
Department of Juvenile Justice			
Department of Juvenile Justice	6	9	15
Agency Total	6	9	15
Department of Law Enforcement			
Criminal Justice Standards and Training Commission	17	15	32
Agency Total	17	15	32
Department of Military Affairs			
Department of Military Affairs	1	0	1
Agency Total	1	0	1
Department of Management Services			
Department of Management Services	1	0	1
Division of State Group Insurance	5	4	9
Division of Retirement	14	17	31
Agency Total	20	21	41
Department of Education			
Department of Education	4	5	9
Division of Blind Services	2	2	4
Confidential Vocational Rehabilitation Cases	2	1	3
Education Practices Commission	51	86	137
Vocational Rehabilitation Services	30	23	53

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2008 - 2009

AGENCY	Jul-Dec	Jan-June	TOTAL
Agency Total	89	117	206
Department of State			
Division of Historical Resources	1	0	1
Division of Elections	1	0	1
Agency Total	2	0	2
Department of Transportation			
Department of Transportation	13	10	23
Agency Total	13	10	23
Department of Business and Professional Regulation			
Board of Architecture	2	3	5
Barber`s Board	2	1	3
Building Code Administrators and Inspectors	0	3	3
Regulatory Council of Community Assoc. of Managers	2	6	8
Construction Industry Licensing Board	40	32	72
Board of Cosmetology	5	1	6
Division of Alcoholic Beverages and Tobacco	45	34	79
Division of Real Estate	18	53	71
Florida Real Estate Commission	1	3	4
Division of Hotels and Restaurants	19	13	32
Division of Land Sales, Condominiums, and Mobile H	0	1	1
Non-licensed Respondent	13	13	26
Division of Pari-Mutuel Wagering	5	8	13
Board of Professional Engineers	14	4	18
State Boxing Commission	0	1	1
Board of Veterinary Medicine	3	0	3
Agency Total	169	176	345
Florida Housing Finance Corporation			
Florida Housing Finance Corporation	3	10	13
Agency Total	3	10	13
Office of the Governor			
Florida Land and Water Adjudicatory Commission	0	1	1
Florida Land and Water Adjudicatory Commission, Co	0	1	1
Agency Total	0	2	2
Agency for Health Care Administration			
Agency for Health Care Administration	3	12	15
Audit Quality Control Services	11	1	12
Office of Certificate of Need	17	20	37
Bureau of Health Facility Regulation	1	1	2
Medicaid Cost Reimbursement	12	1	13
Medicaid Program Integrity	40	30	70
Office of Licensure and Certification	87	97	184
Agency Total	171	162	333
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	10	19	29
Section 320.642	112	55	167
Agency Total	122	74	196

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2008 - 2009

AGENCY	Jul-Dec	Jan-June	TOTAL
Medical Arbitration			
Medical Arbitration	7	9	16
Agency Total	7	9	16
Office of Financial Regulation			
Office of Financial Regulation	9	11	20
Agency Total	9	11	20
Office of Insurance Regulation			
Office of Insurance Regulation	15	10	25
Insurance rate filings	1	0	1
Agency Total	16	10	26
Original Sentencing Court			
Victims of Wrongful Incarceration Act	0	1	1
Agency Total	0	1	1
Department of Revenue			
Department of Revenue	23	28	51
Child Support Enforcement (payment, lien, levy)	17	1	18
Child Support Enforcement Program	1,050	919	1,969
Agency Total	1,090	948	2,038
State Board of Administration			
State Board of Administration	1	3	4
Agency Total	1	3	4
Self-contained Agencies			
Pinellas County Construction Licensing Board	2	0	2
Agency Total	2	0	2
Universities and Colleges			
Florida A & M University	4	3	7
Florida Keys Community College	1	0	1
North Florida Community College	0	1	1
Seminole Community College	1	0	1
University of Florida	1	0	1
University of North Florida	0	1	1
Agency Total	7	5	12
Water Management Districts			
Northwest Florida Water Management District	1	1	2
South Florida Water Management District	8	2	10
St. Johns River Water Management District	8	3	11
Suwannee River Water Management District	1	2	3
Southwest Florida Water Management District	2	3	5
Agency Total	20	11	31
NON BAKER ACT TOTAL	2,534	2,599	5,133

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2008 - 2009

AGENCY	Jul-Dec	Jan-June	TOTAL
Baker Acts			
Department of Veterans Affairs	2	0	2
Florida State Hospital	153	93	246
Geo Group, Inc.	1	0	1
Halifax Community Health System	0	1	1
Lake Correctional Institution	22	18	40
Lakeside Behavioral Healthcare	0	2	2
Manatee Glens	0	1	1
Meridian Behavioral Healthcare, Inc.	1	3	4
Northeast Florida State Hospital	413	346	759
Northside Mental Health Center	2	1	3
Peace River Center	18	5	23
Personal Enrichment Mental Health Services	1	0	1
Shands at the University of Florida	0	1	1
Shands at Vista	2	0	2
South Florida State Hospital	254	247	501
West Florida Community Care Center	17	21	38
Baker Act Total	886	739	1,625

SUMMARY
Division of Administrative Hearings
Actual, Estimated and Requested Expenditures

Adjudication of Disputes

	Actual Expenditures FY 2008-09	Estimated Expenditures FY 2009-10	Requested Expenditures FY 2010-11
<u>Appropriation Category</u>			
Salaries and Benefits	\$7,081,345	\$7,063,114	\$7,091,639
Other Personal Services	3,980	30,091	30,091
Expenses	1,200,648	1,119,104	1,119,104
Operating Capital Outlay	62,675	65,000	65,000
Special Categories			
Contracted Services	181,242	191,723	191,723
Risk Mgmt. Ins.	51,305	54,540	54,540
TR/DMS/HR SVCS	27,556	27,482	27,482
Total Program Budget	<u>\$8,608,751</u>	<u>\$8,551,054</u>	<u>\$8,579,579</u>
Total Program Positions	68	68	68

Workers' Compensation Appeals

	Actual Expenditures FY 2008-09	Estimated Expenditures FY 2009-10	Requested Expenditures FY 2010-11
<u>Appropriation Category</u>			
Salaries and Benefits	\$13,633,694	\$13,461,960	\$13,704,711
Other Personal Services	30,680	33,725	33,725
Expenses	3,188,357	3,250,679	3,094,998
Operating Capital Outlay	82,104	28,796	28,796
Special Categories			
Contracted Services	1,091,535	1,136,549	1,136,549
Contracted Legal Svcs.	32	2,500	2,500
Risk Mgmt. Ins.	66,758	104,785	104,785
TR/DMS/HR SVCS	80,282	80,066	80,066
Total Program Budget	<u>\$18,173,442</u>	<u>\$18,099,060</u>	<u>\$18,186,130</u>
Total Program Positions	198	198	198

TOTAL DIVISION BUDGET	<u>\$26,782,193</u>	<u>\$26,650,114</u>	<u>\$26,765,709</u>
TOTAL DIVISION POSITIONS	266	266	266

2010 DOAH ANNUAL REPORT

#: 37

PERIOD: *July 1, 2009 - June 30, 2010*

DATE: February 1, 2011

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Robert S. Cohen, Chief Judge

PAGES: 29

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2010



STATE OF FLORIDA

DIVISION OF ADMINISTRATIVE HEARINGS



February 1, 2011

THIRTY-SEVENTH ANNUAL REPORT

Division of Administrative Hearings
Thirty-Seventh Annual Report

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**Division of Administrative Hearings
Thirty-Seventh Annual Report**

This report is submitted to the Joint Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of Subsection 120.65(10), Florida Statutes, which provides:

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.

(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).

GENERAL

The Division of Administrative Hearings administers two programs. One, which is the subject of this report, is the Adjudication of Disputes program that operates pursuant to Chapter 120, Florida Statutes. The other is the Workers' Compensation Appeals program, Office of the Judges of Compensation Claims (OJCC), which operates pursuant to

**Division of Administrative Hearings
Thirty-Seventh Annual Report**

Chapter 440, Florida Statutes. Subsection 440.45(5), Florida Statutes, requires the OJCC to issue an annual report to the Governor, the House of Representatives, the Senate, The Florida Bar, and the statewide nominating commission. This report was submitted on November 30, 2010. Accordingly, the present report will focus primarily on the Adjudication of Disputes program. However, because the headquarters element of the Division must support both programs, this report necessarily must include some information addressing the OJCC.

UTILIZATION RATES

Appendix 1 breaks out by agency the utilization rates of Division resources and demonstrates, in descending order, that 12 agencies utilized 96 percent of the Division's docket: the Department of Revenue, the Department of Management Services, the Department of Financial Services, the Agency for Health Care Administration, the Department of Community Affairs, the Department of Business and Professional Regulation, the Department of Children and Family Services, the Department of Education, the Department of Health, the Department of Environmental Protection, the Agency for Persons with Disabilities, and the Department of Transportation. Additionally, entities such as water management districts, cities, counties, school districts, and other educational entities, are significant users of the Division's services and

**Division of Administrative Hearings
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are reported separately since they are covered by contractual agreements.

During FY 2009-2010, state agency and other governmental entity referrals increased by 67 percent with 11,318 requests for assignment of Administrative Law Judges, compared to 6,758 requests filed the previous fiscal year. This large increase is due primarily to the referral of the Agency for Persons with Disabilities of approximately 4,000 cases to the Division just prior to the close of the fiscal year. Requests for assignment of Administrative Law Judges from the following six agencies constitute 69 percent of our fiscal year caseload: the Agency for Persons with Disabilities (4,414 cases, a 781 percent increase over the 501 cases filed in FY 2008-2009), the Department of Children and Family Services (164 cases, a 110 percent increase over the 78 cases filed in FY 2008-2009), the Department of Financial Services (265 cases, a 17 percent increase over the 226 cases filed in FY 2008-2009), the Department of Law Enforcement (58 cases, an 81 percent increase over the 32 cases filed in FY 2008-2009), the Department of Business and Professional Regulation (436 cases, a 26 percent increase over the 345 cases filed in FY 2008-2009), and the Department of Revenue (2,507 cases, a 23 percent increase over the 2,038 cases filed in FY 2008-2009).

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UTILIZATION OF PERSONNEL

As of June 30, 2010, the Adjudication of Disputes program had 68 established positions comprising the Director and Chief Judge, the Deputy Chief Judge, 33 Administrative Law Judges, seven Administrative Secretaries, six Administrative Assistants, one Budget Officer, one Executive Assistant, three Staff Assistants, one Administrative Services Director, one Personnel Officer, one Purchasing Agent, one Accountant Supervisor, one Database Administrator, one Office Automation Specialist, one Distributed Computer Systems Analyst, one Systems Programmer, one Clerk of the Division, two Commission Deputy Clerks, two Deputy Clerks, and two Senior Clerks. With one Administrative Secretary or Administrative Assistant assigned to three judges, this represents a highly efficient model for the adjudicatory process. Our judges utilize a minimum of administrative personnel to perform their assigned tasks.

The Workers' Compensation Appeals program had 198 established positions comprising one Deputy Chief Judge of Compensation Claims, 32 Judges of Compensation Claims, 32 State Mediators, 32 Executive Secretaries, 35 Deputy Clerks (32 in field offices and three in central Clerk's Office), one Deputy Clerk Supervisor, eight Commission Deputy Clerks, five Administrative Assistants, one Staff Assistant, 31 Administrative Secretaries, ten Secretary Specialists,

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one Senior Clerk, one Senior Management Analyst, two Accountants, one Court Reporter, one Clerk, one Distributed Computer Systems Administrator, one Distributed Computer Systems Analyst, one Distributed Computer Systems Specialist, and one Senior Attorney. In an extremely high-volume area of the law, the program constantly seeks ways to combine staff positions and responsibilities in the interest of cost savings.

HEARING REQUESTS

During FY 2009-10, the Division processed 11,318 hearing requests compared to 6,758 cases filed the previous fiscal year. Of the total cases filed, 1,873 were Baker Act cases. The remaining 9,445 cases were primarily filed pursuant to Sections 120.56 and 120.569, and Subsection 120.57(1), Florida Statutes. Most notable were the referrals from the Agency for Persons with Disabilities, which increased its referrals by 781 percent with 4,414 cases filed this year, and the Department of Children and Family Services, which increased its referrals by 110 percent with 164 cases filed this fiscal year, as compared to 78 cases previously reported. It is important to note that approximately 4,000 of the cases referred from the Agency for Persons with Disabilities were either dismissed for mootness or dismissed and transferred to the Department of Children and Family Services, which was granted jurisdiction to hear these matters by a change in the law enacted by the 2010

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Legislature. Other cases filed are itemized by agency in the attached Appendix 2.

In FY 2009-10, each Administrative Law Judge conducted an average of 170 hearings and wrote an average of 79 Recommended or Final Orders of varying length and complexity. In addition, each Judge closed an average of 70 cases, which were settled or otherwise dismissed without a final hearing. The case closure data does not include Baker Act closures.

INFORMATION TECHNOLOGY

The Division maintains two mission-critical databases and applications: the DOAH Case Management System (CMS) and the OJCC Case Management System (JCC). Associated applications include full-text retrieval and document indexing of orders issued by the Division's Administrative Law Judges and Judges of Compensation Claims. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include word-processing, electronic mail, and online legal research via LexisNexis and other Internet resources.

In 2010, the Division continued its implementation of the electronic-filing applications. For the OJCC, a total of 463,187 documents was electronically filed by practitioners. For the Adjudication of Disputes, 21,068 documents were electronically filed. The growth in the use of electronic

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filing, which, at this point, is voluntary since no statutory mandate exists, was due in large part to the efforts of Division staff and leadership in promoting the efficiencies of filing by electronic means. The Division is committed to continuing to promote the use of electronic services over traditional means of filing and serving documents. Electronic service of orders issued by the OJCC and by Administrative Law Judges has been implemented in all cases where the parties of record have provided email addresses to the Division. Online initiation of new cases has also been implemented, as well as electronic filing by self-represented litigants. The savings to the users of electronic filing, in terms of paper, postage, and time, has already registered in the tens of thousands of dollars and will continue to grow as the technology is more widely accepted by users of the Division's services or becomes mandatory based upon statutory changes as discussed more fully below.

Under new provisions of Subsection 120.53(2)(a), Florida Statutes, all state agencies now have an option to electronically transmit their agency orders to the Division's website for indexing purposes. To date, the following agencies have taken advantage of this provision: Department of Agriculture and Consumer Services, Agency for Persons with Disabilities, Department of Children and Family Services, Department of Environmental Protection, Department of Education,

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Department of Business and Professional Regulation, and
Department of Highway Safety and Motor Vehicles.

OPERATING BUDGET

The Division is 100 percent trust funded. Appendix 3 summarizes the actual, estimated, and requested expenditures for the Division's programs for FY 2009-10, FY 2010-11, and FY 2011-12, respectively.

For the Adjudication of Disputes program, each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours conducted by its judges for all agencies. Based on this data, the Division's budget is prorated among the state agencies utilizing its services, and the Legislature appropriates fund transfers to the Division from those agencies. Hence, the amount each agency transfers to the Division is based on the amount of time the judges spend in pre-hearing conferences, motion hearings, and final hearings for each agency in a given year. Beginning in FY 2003-04, data on cancelled and continued hearings were excluded from the report under the theory that the agencies should not be penalized for encouraging the resolution of disputes short of proceeding to hearing. In October 2010, the Division submitted its twenty-fourth "Hearing Hours Held" report (see Appendix 1). In FY 2009-10, 5,314 hearing hours were held. (Appendix 1 excludes Baker Act hearing hours, which totaled 235 in FY 2009-10.)

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The Division is also authorized to enter into contracts with non-state entities such as cities, counties, regional planning councils, water management districts, school districts, and other educational entities for the provision of Administrative Law Judge services. The Division executed a contract with the Florida Legislature in late 2006, and the Division's judges are now hearing Florida Senate claim bills. Contract organizations reimburse the Division for the costs of its services at a rate that is based on a total-cost-recovery methodology.

The Division has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA's) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to non-state entities. This has been accomplished by revising each year the hourly rate that is paid by the non-state entities for Administrative Law Judge services, by marketing the Division's services to attract new non-state entities, and by backing out these revenues before the budget is prorated among the state agencies. The assessment for administrative support that is paid by the Workers' Compensation Appeals program is also backed out before the budget is prorated. Hence, state agency transfers have been reduced by about \$1.2 million in the Division's FY 2011-12 Legislative Budget Request. In the coming

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year, the Director and other members of the Division's staff will continue their efforts to solicit new contractual business from local government entities to further offset the cost of supporting the Division that is borne by our state agencies.

The Workers' Compensation Appeals program is supported by cash transfers from the Workers' Compensation Administration Trust Fund that is administered by the Department of Financial Services. This trust fund is funded through a workers' compensation premium tax assessment which supports the entire workers' compensation program, not just the appeals program administered by the Division.

RECOMMENDATIONS CONCERNING THE A.P.A.

The Division closely follows judicial decisions concerning the application and interpretation of the Administrative Procedure Act (A.P.A.). The Division clearly recognizes that it must remain fair and impartial in all matters affecting the agencies and private parties that come before it for adjudication of their disputes. However, pursuant to its statutory mandate in Subsection 120.65(10)(b), Florida Statutes, the Division is required to make recommendations for changes or improvements in the A.P.A. "or any agency's practice or policy with respect thereto." Further, Section 120.65, Florida Statutes, was amended in 2006 to require the Division to include recommendations as to the types of cases that should be

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conducted under the summary hearing process described in Section 120.574, Florida Statutes. § 120.65(10)(c), Fla. Stat. Finally, Section 120.65, Florida Statutes, was amended to require the Division's report to include information regarding each agency's compliance with the filing requirement in Subsection 120.57(1)(m), Florida Statutes.

This year, as in the past, bills have been filed in the Florida Senate and House of Representatives, which relate to providing administrative hearing rights at the Division to individuals who are aggrieved by certain agency actions. One area of proposed legislation concerns the filing by agencies of emergency orders for suspension of licenses under Section 120.60, Florida Statutes. The proposed language would ensure that the affected licensee is made aware of his or her rights to an administrative hearing on the suspension before the Division. This language will most likely be part of any administrative procedures bill that comes before the Legislature. In the past year, the Division had new types of cases added to those within its jurisdiction. The Division has now heard cases concerning individuals who were wrongfully incarcerated, and will hear matters related to the "Call Before You Dig" program, which protects the public from accidents occurring when a contractor digs and creates a dangerous condition by severing a gas or utility line during excavation.

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The Division continues to perform Special Master duties under contract with the Florida Senate, and the Administrative Law Judges assigned to hear legislative claim bills will be called upon to support their decisions before the appropriate Senate committees and, when requested, on the Senate floor. The Division has taken on these new matters without the addition of new judges or support staff. In fact, during the 2009 Special Session, the Division had one vacant Administrative Law Judge position eliminated, but has not experienced any reduction in the timeliness of hearings conducted and orders issued. With significant budget cuts potentially occurring in the 2011 Legislative Session, however, a loss of judges could result in longer times to the hearing and ultimate resolution of matters brought before the Division.

Last year, legislation passed both the House and Senate, to make the electronic filing provisions contained both in Chapter 120 and Chapter 440, Florida Statutes, mandatory. Unfortunately, Governor Crist vetoed the legislation because of provisions contained in it related not to electronic filing, but to oversight of the Department of Management Services. As noted above, the Division has experienced immense growth in the use of filing of pleadings, orders, and other documents by electronic means under a purely voluntary system. Under the current system, registered users of the electronic filing program

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realize the efficiencies and savings afforded by not using the mail, both regular and overnight, courier services to file papers with the Division, copying charges and materials, and staff time to carry out each of these functions. If the system is made mandatory, not only will the Division save costs, but the users of the system will realize great savings in time, effort, and the cost of materials and staff. Moreover, electronic filing will allow all filed pleadings to be made available immediately on the Division's website for use by the public, thereby adding to the transparency of the work performed by the Division. Realizing that not everyone has access to a computer, the proposed legislation will carve out an exception to the requirement of electronic filing for those unable to gain reasonable access to a computer for filing documents. We hope to be successful in efforts to make electronic filing mandatory in 2011.

The summary hearing process set forth in Section 120.574, Florida Statutes, has been selected by agencies and private parties only in rare instances since its enactment in 1998. In fact, to date, fewer than 20 cases have been heard by the Division under this Section. As we have done numerous times in the past, we will again note that if certain regulatory agencies, namely, those responsible for the prosecution of licensure disciplinary matters, such as the Department of

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Business and Professional Regulation and the Department of Health, were to refer their "misdemeanor" cases (those where the only penalty sought is an administrative fine) into the summary hearing process, the Division could assist with any backlog these agencies currently experience with respect to these cases. Also, if the minor infraction cases were referred to the Division for prompt adjudication, the regulatory agencies could concentrate their efforts (and precious meeting time for the volunteer members of the professional licensing boards) on the more serious matters which pose a threat to the health, safety, and welfare of the citizens of Florida. The Division could handle these additional summary matters with its current complement of judges and support staff.

In 2009, the Division was able for the first time to offer video-teleconferencing capabilities in each of its 17 district offices around the state, as well as in the central offices in Tallahassee. This capability resulted in significant savings in costs and time, since the judges assigned to cases outside of Tallahassee were able to conduct many hearings via video, allowing them to maximize their office time to issue more timely the highly detailed orders that are required in administrative hearings. The video teleconferencing technology has developed to the point where many attorneys prefer its use to the live hearing since multiple sites may be linked for a single hearing,

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allowing, for example, the judge and agency representatives to be in Tallahassee, the party involved in the hearing to be in Ft. Lauderdale, and perhaps even a witness to appear in Orlando, rather than having to travel to one of the other sites.

In addition to the use of video teleconferencing for hearings, video teleconferencing has become an invaluable training tool, allowing us to connect multiple cities to our trainers in Tallahassee, rather than sending people on the road to perform in-service training. Most recently, we successfully used the video teleconferencing system for workshops related to the updating and amendment of our workers' compensation rules. Attorneys in Jacksonville, Orlando, Tampa, Ft. Lauderdale, and Miami all were able to participate in rules workshops on the same day without leaving their hometowns, a considerable savings in time and resources. The result was significantly increased participation by the local attorneys and employer/carriers in the rulemaking process. As a result, the amended workers' compensation rules were implemented in early November 2010.

Pursuant to the requirement contained in Subsection 120.65(10)(d), Florida Statutes, many agencies have improved the timeliness of filing their final orders with the Division. In this past fiscal year, 12 of the 17 reported agencies employing the services of the Division have completely or substantially complied with the 15-day filing requirement (Agency for Health

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Care Administration, Agency for Persons with Disabilities, Department of Agriculture and Consumer Services, Department of Education, Department of Environmental Protection, Department of Financial Services, Department of Health, Department of Highway Safety and Motor Vehicles, Department of Juvenile Justice, Department of Management Services, Office of the Governor, and Department of Transportation). Overall, of the agency final orders filed with the Division between July 1, 2009, and June 30, 2010, 78 percent were filed within 15 days of entry by the agency. The Division once again intends to remind the agencies of the statutory requirement to timely file their final orders; filing these final orders electronically makes the task a simple one for the agencies.

Finally, in 2008, the Legislature designated the Division as an alternative for agencies who seek help in indexing their final orders pursuant to Subsection 120.53(1)(a)2.b., Florida Statutes. Agencies may now designate the Division to keep, in an electronic format, all of their final orders and make those orders available to the public in a searchable database. Seven agencies, Agency for Persons with Disabilities, Department of Agriculture and Consumer Services, Department of Business and Professional Regulation, Department of Community Affairs, Department of Education, Department of Environmental Protection, and Department of Highway Safety and Motor Vehicles have already

**Division of Administrative Hearings
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taken advantage of this service, and several agencies are now in the process of electronically transmitting these orders to the Division, which will publish them on its website for public use. As more agencies take advantage of this service, the Division may have to increase its data storage capabilities.

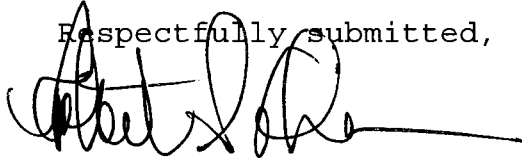
CONCLUSION

The Division continues to supply high-quality adjudication of disputes pursuant to Chapter 120, the Administrative Procedure Act, despite another annual increase in its caseload. Therefore, the Division constantly seeks ways to make the process more affordable to state agencies and citizens, and continues to expand its base to counties, cities, and other users of its program in order to reduce the cost of providing services. In the coming year, the Division will continue to focus its efforts on improved technology in order to streamline the electronic filing of all matters before it, as well as to improve access to the public for research, for order preparation, and for archiving. Thus, through the elimination of programs that are not cost-effective; the elimination of personnel no longer needed in the face of improved technology; through promoting alternative dispute resolution short of hearing; the encouragement toward agencies to take advantage of the summary hearing process; and the increase in the number of non-state agencies contracting for the Division's services, the

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Division contributes to the goal of efficient government. To conclude, our number one concern is to ensure that all who appear before the Division are afforded due process in a fair and impartial setting, before a judge who treats them with respect and has a thorough understanding of the law to be applied in the matter at hand. We shall accomplish this without sacrificing quality and fairness in the Adjudication of Disputes program, and shall accomplish our goals without requesting additional funding from the Legislature.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Robert S. Cohen', with a long horizontal flourish extending to the right.

ROBERT S. COHEN
Director and Chief Judge

RSC/ljs

6/30/2010

Appendix 1

HEARING HOURS HELD REPORT
FY 2009-2010
For the Period 07/01/09 through 6/30/2010

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	PRORATED AMOUNT OF FY 2011-12 LBR
AHCA	8.25	19.00	263.75	291.00	7.30055%	\$545,346
AGR	0.00	0.75	34.75	35.50	0.89062%	\$66,528
APD	1.75	5.00	111.50	118.25	2.96663%	\$221,605
AWI	0.00	0.00	0.00	0.00	0.00000%	\$0
DBPR	5.50	8.75	189.25	203.50	5.10537%	\$381,367
DCF	3.25	4.00	175.50	182.75	4.58480%	\$342,481
CIT	0.00	0.00	0.00	0.00	0.00000%	\$0
DCA	3.25	8.25	277.75	289.25	7.25665%	\$542,066
COR	0.00	1.00	3.00	4.00	0.10035%	\$7,496
DOE	1.75	4.25	172.25	178.25	4.47190%	\$334,048
ELDER	0.00	0.25	0.00	0.25	0.00627%	\$469
DEP	6.00	13.50	111.50	131.00	3.28650%	\$245,499
ETH	0.00	0.00	10.50	10.50	0.26342%	\$19,677
FEC	0.50	0.00	5.50	6.00	0.15053%	\$11,244
FWCC	0.00	0.00	0.00	0.00	0.00000%	\$0
GOV	0.25	0.50	29.75	30.50	0.76518%	\$57,158
DMA	0.00	0.00	0.00	0.00	0.00000%	\$0
DOH	1.75	10.75	130.00	142.50	3.57501%	\$267,051
HSM	2.50	2.25	12.75	17.50	0.43904%	\$32,796
DFS	10.00	29.75	259.25	299.00	7.50125%	\$560,338
JUV	0.25	0.00	11.50	11.75	0.29478%	\$22,020
DLE	0.00	1.75	28.50	30.25	0.75891%	\$56,690
DLA	0.00	0.00	0.00	0.00	0.00000%	\$0
LOT	0.50	3.50	0.00	4.00	0.10035%	\$7,496
DMS	4.00	29.75	454.25	488.00	12.24285%	\$914,532
PSC	0.00	0.00	0.00	0.00	0.00000%	\$0
REV	2.50	4.25	1463.50	1470.25	36.88535%	\$2,755,308
DOS	0.00	0.00	0.00	0.00	0.00000%	\$0
DOT	1.75	6.25	34.00	42.00	1.05369%	\$78,710
VET	0.00	0.00	0.00	0.00	0.00000%	\$0
TOTAL:	53.75	153.50	3778.75	3986.00	100.00000%	\$7,469,925

NOTE: Hearing hours held in contract cases (water management districts, regional planning councils, cities, counties, school district/educational entity cases, etc.), NICA cases, and other miscellaneous cases are reported separately.

*Prior to prorating among state agencies, DOAH's FY 2011-12 Legislative Budget Request totaling \$8,632,999 was adjusted to reflect estimated revenue of \$579,733 from contract entities, payment of \$600,769 from the Workers' Compensation Appeals Program for general management and administrative services costs, estimated revenue of \$72,583 from cases filed pursuant to Chapter 403, Florida Statutes, and the estimated nonoperating cost of \$90,011 for state agency video teleconferencing hearings.

6/30/2010

Appendix 1

HEARING HOURS HELD BY CONTRACT/EDUCATIONAL/OTHER AGENCIES

FY 2009-2010

For the Period 07/01/09 through 6/30/10

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF HOURS ALL AGENCIES
CONTRACT	5.50	10.00	176.75	192.25	3.61780%
EPP	0.00	0.00	0.00	0.00	0.00000%
TL	0.00	0.00	0.00	0.00	0.00000%
NICA	5.00	4.75	6.50	16.25	0.30580%
OTHER	1.50	2.25	22.75	26.50	0.49868%
SENATE CLAIM	2.75	0.00	17.25	20.00	0.37636%
SCHBDS	42.00	31.75	999.25	1073.00	20.19195%
TOTAL:	56.75	48.75	1222.50	1328.00	24.99059%

CONTRACT: Water Management Districts, Regional Planning Councils, Cities, Counties, etc., as specified in Subsection 120.65(11), F.S.

EPP: Cases filed by DEP, pursuant to Chapter 403, Florida Statutes.

TL: Transmission line siting cases filed by DEP, pursuant to Chapter 403, Florida Statutes.

NICA: Florida Birth-Related Neurological Injury Compensation Association.

OTHER: Noncontract entities such as Pinellas County Construction Licensing Board and Victims of Wrongful Incarceration Compensation Act

SENATE CLAIM BILLS: Excess judgment claims and equitable claims, pursuant to Senate Rules 4.81

SCHBDS: School boards and other educational entities specified in Subsection 120.65(11), F.S.

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2009 - 2010

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	1	0	1
Bureau of License and Bond	8	6	14
Office of Citrus License and Bond	5	0	5
Division of Consumer Services	1	7	8
Bureau of Entomology and Pest Control	1	0	1
Division of Licensing	0	3	3
Agency Total	16	16	32
Agency for Persons with Disabilities			
Agency for Persons with Disabilities	25	36	61
Cost Plan Review	0	3,670	3,670
Medicaid Waiver Benefits (Attorney General referral)	114	48	162
Medicaid Waiver Benefits (DCFS referral)	1	11	12
Medicaid Waiver Benefits (APD referral)	26	7	33
Tier Waiver System	0	476	476
Agency Total	166	4,248	4,414
Agency for Workforce Innovation			
Agency for Workforce Innovation	0	1	1
Agency Total	0	1	1
Department of Children and Family Services			
Department of Children and Family Services	2	1	3
Adult Services Program	0	1	1
Developmental Services	1	0	1
Exemption Ch. 435, position of special trust	30	49	79
Family Safety and Preservation Programs	46	34	80
Non-Baker Act Total	79	85	164
Contract Hearings			
Contract Hearings	0	1	1
Claim Bill (Senate)	31	0	31
City of Clearwater	1	0	1
City of Gainesville	6	5	11
City of Jacksonville	1	0	1
Code Enforcement	1	0	1
Emerald Coast Utilities Authority	2	0	2
Board of Trustees of the Fort Pierce Police Pension	2	0	2
Hillsborough County	1	0	1
Leon County	0	1	1
Pinellas County	2	1	3
Polk Co Supervisor of Elections	2	0	2
Tampa Bay Water, a Regional Water Supply Authority	0	1	1
Agency Total	49	9	58
Commissions			
Commission for the Transportation Disadvantaged	0	2	2
Florida Commission on Ethics	6	6	12
Florida Commission on Human Relations	68	73	141
FCHR, Fair Housing Act	38	20	58
Florida Elections Commission	6	3	9
Florida Parole Commission	2	0	2
Agency Total	120	104	224

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2009 - 2010

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Corrections			
Department of Corrections	2	2	4
Agency Total	2	2	4
County School Boards			
Alachua County School Board	0	1	1
Bay County School Board	0	1	1
Brevard County School Board	1	1	2
Broward County School Board	10	17	27
Citrus County School Board	2	0	2
Miami-Dade County School Board	21	27	48
DeSoto County School Board	0	1	1
Duval County School Board	3	1	4
Hernando County School Board	0	1	1
Hillsborough County School Board	6	3	9
Lee County School Board	2	1	3
Leon County School Board	1	1	2
Manatee County School Board	0	2	2
Marion County School Board	1	2	3
Martin County School Board	0	1	1
Nassau County School Board	2	0	2
Orange County School Board	3	6	9
Palm Beach County School Board	5	6	11
Section 504 cases	1	0	1
Pasco County School Board	2	2	4
Pinellas County School Board	4	2	6
Polk County School Board	0	1	1
St Johns County School Board	1	1	2
St Lucie County School Board	0	2	2
Seminole County School Board	4	6	10
Teacher Termination or Suspension	49	56	105
Agency Total	118	142	260
Department of Community Affairs			
Department of Community Affairs	17	26	43
Small Scale Comprehensive Plan Amendment	4	2	6
Agency Total	21	28	49
Department of Elder Affairs			
Department of Elder Affairs	5	0	5
Agency Total	5	0	5
Department of Environmental Protection			
Department of Environmental Protection	47	45	92
Agency Total	47	45	92
Department of Financial Services			
Department of Financial Services	6	1	7
Division of Insurance Agents and Agencies Services	18	32	50
Bureau of Unclaimed Property	0	2	2
Division of State Fire Marshal	7	2	9
Division of Funeral, Cemetery, and Consumer Services	3	3	6
Neurological Injury	31	20	51
Division of Workers` Compensation	70	70	140

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2009 - 2010

AGENCY	Jul-Dec	Jan-June	TOTAL
Agency Total	135	130	265
Department of Health			
Department of Health	1	4	5
Board of Acupuncture	0	1	1
Board of Chiropractic	1	1	2
Clinical Laboratory Personnel	0	1	1
Board of Dentistry	1	6	7
Drugs, Devices, and Cosmetics Program	3	2	5
Environmental Health	11	5	16
Bureau of Emergency Medical Services	0	1	1
Board of Hearing Aid Specialists	2	0	2
Board of Medicine	31	17	48
Board of Massage Therapy	2	1	3
Board of Nursing	10	10	20
Board of Orthotists and Prosthetists	0	1	1
Board of Opticianry	0	1	1
Board of Optometry	4	1	5
Board of Osteopathic Medicine	3	1	4
Board of Pharmacy	1	2	3
Board of Podiatric Medicine	0	1	1
Board of Respiratory Therapy	0	3	3
Agency Total	70	59	129
Department of Juvenile Justice			
Department of Juvenile Justice	7	13	20
Agency Total	7	13	20
Department of Legal Affairs			
Department of Legal Affairs	1	0	1
Agency Total	1	0	1
Department of Law Enforcement			
Criminal Justice Standards and Training Commission	31	26	57
Medical Examiners Commission	0	1	1
Agency Total	31	27	58
Department of Management Services			
Department of Management Services	0	1	1
Division of State Group Insurance	9	5	14
Division of Retirement	6	7	13
Agency Total	15	13	28
Department of Education			
Department of Education	1	5	6
Division of Blind Services	3	0	3
Commission for Independent Education	1	2	3
Confidential Vocational Rehabilitation Cases	0	2	2
Education Practices Commission	43	44	87
Vocational Rehabilitation Services	22	15	37
Agency Total	70	68	138
Department of Lottery			
Department of Lottery	1	0	1

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2009 - 2010

AGENCY	Jul-Dec	Jan-June	TOTAL
Agency Total	1	0	1
Department of State			
Department of State	1	0	1
Agency Total	1	0	1
Department of Transportation			
Department of Transportation	6	6	12
Agency Total	6	6	12
Department of Business and Professional Regulation			
Board of Architecture	5	4	9
Board of Auctioneers	0	1	1
Barber's Board	0	1	1
Building Code Administrators and Inspectors	0	3	3
Bureau of Elevator Safety	0	1	1
Regulatory Council of Community Assoc. of Managers	0	11	11
Construction Industry Licensing Board	30	34	64
Board of Cosmetology	0	2	2
Division of Alcoholic Beverages and Tobacco	24	23	47
Division of Real Estate	39	48	87
Electrical Contractors	3	4	7
Florida Real Estate Commission	7	4	11
Division of Hotels and Restaurants	39	98	137
Board of Professional Surveyors and Mappers	2	0	2
Division of Land Sales, Condominiums, and Mobile H	4	0	4
Non-licensed Respondent	9	9	18
Board of Pilot Commissioners	1	1	2
Division of Pari-Mutuel Wagering	4	5	9
Board of Professional Engineers	3	9	12
Board of Talent Agencies	0	1	1
Board of Veterinary Medicine	2	5	7
Agency Total	172	264	436
Florida Housing Finance Corporation			
Florida Housing Finance Corporation	7	7	14
Agency Total	7	7	14
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	0	1	1
Agency Total	0	1	1
Office of the Governor			
Office of the Governor	0	2	2
Florida Land and Water Adjudicatory Commission	0	3	3
Florida Land and Water Adjudicatory Commission, Co	0	1	1
Agency Total	0	6	6
Agency for Health Care Administration			
Agency for Health Care Administration	3	2	5
Audit Quality Control Services	27	0	27
Office of Certificate of Need	12	15	27
Bureau of Health Facility Regulation	6	8	14
Medicaid Cost Reimbursement	6	14	20
Medicaid Program Integrity	38	40	78

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2009 - 2010

AGENCY	Jul-Dec	Jan-June	TOTAL
Office of Licensure and Certification	89	107	196
Agency Total	181	186	367
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	14	24	38
Section 320.642	33	13	46
Agency Total	47	37	84
Medical Arbitration			
Medical Arbitration	5	5	10
Agency Total	5	5	10
Office of Financial Regulation			
Office of Financial Regulation	13	6	19
Agency Total	13	6	19
Office of Insurance Regulation			
Office of Insurance Regulation	3	2	5
Agency Total	3	2	5
Original Sentencing Court			
Victims of Wrongful Incarceration Act	2	0	2
Agency Total	2	0	2
Department of Revenue			
Department of Revenue	32	19	51
Child Support Enforcement (payment, lien, levy)	1	0	1
Child Support Enforcement Program	1,198	1,257	2,455
Agency Total	1,231	1,276	2,507
Self-contained Agencies			
Self-contained Agencies	0	1	1
Pinellas County Construction Licensing Board	0	5	5
Agency Total	0	6	6
Universities and Colleges			
Florida A & M University	1	2	3
Agency Total	1	2	3
Water Management Districts			
Northwest Florida Water Management District	0	4	4
Peace River Manasota Regional Water Supply Authori	0	1	1
South Florida Water Management District	7	8	15
St. Johns River Water Management District	2	4	6
Suwannee River Water Management District	1	0	1
Southwest Florida Water Management District	2	0	2
Agency Total	12	17	29
NON BAKER ACT TOTAL	2,634	6,811	9,445

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2009 - 2010

AGENCY	Jul-Dec	Jan-June	TOTAL
Baker Acts			
Department of Veterans Affairs	4	0	4
Florida State Hospital	201	200	401
Geo Group, Inc.	4	1	5
Lake Correctional Institution	13	16	29
Lakeside Behavioral Healthcare	1	0	1
Northeast Florida State Hospital	420	427	847
Peace River Center	6	7	13
Personal Enrichment Mental Health Services	0	1	1
Shands at the University of Florida	0	1	1
Shands at Vista	0	1	1
South Florida State Hospital	255	259	514
West Florida Community Care Center	28	28	56
Baker Act Total	932	941	1,873

SUMMARY
Division of Administrative Hearings
Actual, Estimated and Requested Expenditures

Adjudication of Disputes

	Actual Expenditures FY 2009-10	Estimated Expenditures FY 2010-11	Requested Expenditures FY 2011-12
<u>Appropriation Category</u>			
Salaries and Benefits	\$7,037,428	\$7,153,807	\$7,165,001
Other Personal Services	1,830	30,091	30,091
Expenses	1,179,493	1,114,740	1,114,740
Operating Capital Outlay	64,826	65,000	65,000
Special Categories			
Contracted Services	166,363	191,723	191,723
Risk Mgmt. Ins.	57,040	38,962	38,962
TR/DMS/HR SVCS	27,190	27,482	27,482
Total Program Budget	<u>\$8,534,170</u>	<u>\$8,621,805</u>	<u>\$8,632,999</u>
Total Program Positions	68	68	68

Workers' Compensation Appeals

	Actual Expenditures FY 2009-10	Estimated Expenditures FY 2010-11	Requested Expenditures FY 2011-12
<u>Appropriation Category</u>			
Salaries and Benefits	\$13,803,216	\$13,702,630	\$13,896,533
Other Personal Services	22,452	33,725	33,725
Expenses	3,038,858	3,116,799	2,961,118
Operating Capital Outlay	28,631	25,916	25,916
Special Categories			
Contracted Services	997,905	1,114,049	1,114,049
Contracted Legal Svcs.	40	1,279	1,279
Risk Mgmt. Ins.	109,588	80,743	80,743
Tenant Broker Comm.	81,766	0	0
TR/DMS/HR SVCS	79,216	80,066	80,066
Total Program Budget	<u>\$18,161,672</u>	<u>\$18,155,207</u>	<u>\$18,193,429</u>
Total Program Positions	198	198	198

TOTAL DIVISION BUDGET	<u>\$26,695,842</u>	<u>\$26,777,012</u>	<u>\$26,826,428</u>
TOTAL DIVISION POSITIONS	266	266	266

2011 DOAH ANNUAL REPORT

#: 38

PERIOD: *July 1, 2010 - June 30, 2011*

DATE: February 1, 2012

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Robert S. Cohen, Chief Judge

PAGES: 24

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2011



STATE OF FLORIDA

DIVISION OF ADMINISTRATIVE HEARINGS



February 1, 2012

THIRTY-EIGHTH ANNUAL REPORT

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INTRODUCTION

This report is submitted to the Joint Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of section 120.65(10), Florida Statutes, which provides:

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.
- (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).

GENERAL

The Division of Administrative Hearings administers two programs. One, which is the subject of this report, is the Adjudication of Disputes program that operates pursuant to chapter 120, Florida Statutes. The other is the Workers' Compensation Appeals program, Office of the Judges of Compensation Claims (OJCC), which operates pursuant to chapter 440, Florida Statutes. Section 440.45(5), Florida Statutes, requires the OJCC to issue an annual report to the Governor, the House of Representatives, the Senate, The Florida Bar, and the statewide nominating commission. This report was submitted on October 13, 2011. Accordingly, the present report will focus primarily on the Adjudication of Disputes program. However, because

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the headquarters element of the Division must support both programs, this report necessarily must include some information addressing the OJCC.

UTILIZATION RATES

Appendix 1 breaks out by agency the utilization rates of Division resources and demonstrates, in descending order, that 12 agencies utilized 97 percent of the Division's docket: the Department of Revenue, the Department of Management Services, the Department of Environmental Protection, the Agency for Health Care Administration, the Department of Economic Opportunity (combining the utilization of the former Agency for Workforce Innovation and Department of Community Affairs), the Department of Business and Professional Regulation, the Department of Health, the Department of Children and Families, the Department of Education, the Department of Financial Services, the Agency for Persons with Disabilities, and the Department of Law Enforcement. Additionally, entities such as water management districts, cities, counties, school districts, and other educational entities, are significant users of the Division's services and are reported separately since they are covered by contractual agreements.

During FY 2010-2011, state agencies and other governmental entities referred 6,476 requests for assignment of an administrative law judge compared to 11,318 requests filed the previous year. Although there is a decrease in cases referred, this is attributed to the large volume of cases referred to the Division in FY 2009-2010 from the Agency for Persons with Disabilities. Law enacted by the 2010 Legislature granted jurisdiction to the Department of Children and Families to hear these matters. Requests for assignment of Administrative Law Judges from the following six agencies constitute nine percent of our fiscal year caseload: the

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Department of Community Affairs (59 cases, a 20 percent increase over the 49 cases filed in FY 2009-2010), the Department of Health (167 cases, a 29 percent increase over the 129 cases filed in FY 2009-2010), the Department of Elder Affairs (12 cases, an increase of 140 percent over the 5 cases filed in FY 2009-2010), the Department of Transportation (16 cases, an increase of 33 percent over the 12 cases filed in FY 2009-2010), the Office of the Governor (9 cases, an increase of 50 percent over the 6 cases filed in FY 2009-2010), and the County School Boards (302 cases, an increase of 16 percent over the 260 cases filed in FY 2009-2010).

UTILIZATION OF PERSONNEL

As of June 30, 2011, the Adjudication of Disputes program had 68 established positions comprising the Director and Chief Judge, the Deputy Chief Judge, 33 Administrative Law Judges, seven Administrative Secretaries, six Administrative Assistants, one Budget Officer, one Executive Assistant, three Staff Assistants, one Administrative Services Director, one Personnel Officer, one Purchasing Agent, one Accountant Supervisor, one Database Administrator, one Office Automation Specialist, one Distributed Computer Systems Analyst, one Systems Programmer, one Clerk of the Division, two Commission Deputy Clerks, two Deputy Clerks, and two Senior Clerks. With one Administrative Secretary or Administrative Assistant assigned to three judges, this represents a highly efficient model for the adjudicatory process. Our judges utilize a minimum of administrative personnel to perform their assigned tasks.

The Workers' Compensation Appeals program had 198 established positions comprising one Deputy Chief Judge of Compensation Claims, 32 Judges of Compensation Claims, 32 State Mediators, 32 Executive Secretaries, 35 Deputy Clerks (32 in field offices and three in central Clerk's Office), one Deputy Clerk Supervisor, eight Commission Deputy Clerks, five

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Administrative Assistants, one Staff Assistant, 31 Administrative Secretaries, ten Secretary Specialists, one Senior Clerk, one Senior Management Analyst, two Accountants, one Court Reporter, one Clerk, one Distributed Computer Systems Administrator, one Distributed Computer Systems Analyst, one Distributed Computer Systems Specialist, and one Senior Attorney. The Legislature, in 2011 made personnel cuts to the Division. As of July 1, 2011, the Adjudication of Disputes program had been reduced to 67 established positions with the elimination of one judge. The Workers' Compensation Appeals Program was reduced to 182 established positions. In an extremely high-volume area of the law and in recognition of the economic downturn, the program constantly seeks ways to combine staff positions and responsibilities in the interest of cost savings.

HEARING REQUESTS

During FY 2010-11, the Division processed 6,476 hearing requests compared to 11,318 cases filed the previous fiscal year. Of the total cases filed, 1,770 were Baker Act cases. The remaining 4,706 cases were primarily filed pursuant to sections 120.56, 120.569, and 120.57(1), Florida Statutes. Most notable were the referrals from the Department of Elder Affairs, which increased its referrals by 140 percent with 12 cases filed this fiscal year compared to five cases previously reported. Other cases filed are itemized by agency in the attached Appendix 2.

In FY 2010-11, each Administrative Law Judge conducted an average of 160 hearings and wrote an average of 76 Recommended or Final Orders of varying length and complexity. In addition, each Judge closed an average of 167 cases, which were settled or otherwise dismissed without a final hearing. It is important to note that approximately 4,000 of the cases referred

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from the Agency for Persons with Disabilities were either dismissed for mootness or dismissed and transferred to the Department of Children and Families, which was granted jurisdiction to hear these matters by a change in the law enacted by the 2010 Legislature. The case closure data does not include Baker Act closures.

INFORMATION TECHNOLOGY

The Division maintains two mission-critical databases and applications: the DOAH Case Management System (CMS) and the OJCC Case Management System (JCC). Associated applications include full-text retrieval and document indexing of orders issued by the Division's Administrative Law Judges and Judges of Compensation Claims. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include word-processing, electronic mail, and online legal research via LexisNexis and other Internet resources.

In 2011, the Division continued its implementation of the electronic-filing applications. Effective July 1, 2011, under chapter 2011-208, section 7, Laws of Florida, electronic filing became mandatory for all parties, except those representing themselves in administrative law or workers' compensation cases. For the OJCC, 463,208 documents were electronically filed by practitioners. For the Adjudication of Disputes, 32,701 documents were electronically filed. Electronic service of orders issued by the OJCC and by Administrative Law Judges has been implemented in all cases where the parties of record have provided email addresses to the Division. Online initiation of new cases has also been implemented, as well as voluntary electronic filing by self-represented litigants. All pleadings received by the Division in paper form from attorneys required to file electronically have generated a reminder of the fact that

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electronic filing became mandatory July 1. Compliance by attorneys who receive such a notice one time has been better than 90 percent making the reminder a fair way to implement the new filing requirement. Overall compliance with mandatory electronic filing has been excellent since most attorneys had taken advantage of the ability to file online prior to being required. The savings to the users of electronic filing, in terms of paper, postage, and time, has already registered in the tens of thousands of dollars.

Under new provisions of section 120.53(2)(a), Florida Statutes, all state agencies now have an option to electronically transmit their agency orders to the Division's website for indexing purposes. To date, the following agencies have taken advantage of this provision: Department of Agriculture and Consumer Services, Agency for Persons with Disabilities, Department of Children and Families, Department of Environmental Protection, Department of Education, Department of Business and Professional Regulation, and Department of Highway Safety and Motor Vehicles. We expect additional agencies will enroll in this no cost program in the coming year.

OPERATING BUDGET

The Division is 100 percent trust funded. Appendix 3 summarizes the actual, estimated, and requested expenditures for the Division's programs for FY 2010-11, FY 2011-12, and FY 2012-13, respectively.

For the Adjudication of Disputes program, each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours conducted by its judges for all agencies. Based on this data, the Division's budget is prorated among the state agencies utilizing its services, and the Legislature appropriates fund transfers to the Division from those

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agencies. Hence, the amount each agency transfers to the Division is based on the amount of time the judges spend in pre-hearing conferences, motion hearings, and final hearings for each agency in a given year. Beginning in FY 2003-04, data on cancelled and continued hearings were excluded from the report under the theory that the agencies should not be penalized for encouraging the resolution of disputes short of proceeding to hearing. In September 2011, the Division submitted its twenty-fifth "Hearing Hours Held" report (see Appendix 1). In FY 2010-11, 5,182 hearing hours were held. (Appendix 1 excludes Baker Act hearing hours, which totaled 222 in FY 2010-11.)

The Division is also authorized to enter into contracts with non-state entities such as cities, counties, regional planning councils, water management districts, school districts, and other educational entities for the provision of Administrative Law Judge services. The Division first executed a contract with the Florida Legislature in late 2006 which has subsequently been renewed each year, and the Division's judges hear all Florida Senate claim bills that require a hearing before a Special Master. Contract organizations reimburse the Division for the costs of its services at a rate that is based on a total-cost-recovery methodology. The current contract rate is \$146 an hour, a most reasonable rate for adjudicatory services by experienced lawyer-judges.

The Division has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA's) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to non-state entities. This has been accomplished by revising each year the hourly rate that is paid by the non-state entities for Administrative Law Judge services, by marketing the Division's services to attract new non-state entities, and by backing out these revenues before the budget is prorated among the state

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agencies. The assessment for administrative support that is paid by the Workers' Compensation Appeals program is also backed out before the budget is prorated. Hence, state agency transfers have been reduced by about \$1.2 million in the Division's FY 2012-13 Legislative Budget Request. In the coming year, the Director and other members of the Division's staff will continue their efforts to solicit new contractual business from local government entities to further offset the cost of supporting the Division that is borne by our state agencies.

The Workers' Compensation Appeals program is supported by cash transfers from the Workers' Compensation Administration Trust Fund that is administered by the Department of Financial Services. This trust fund is funded through a workers' compensation premium tax assessment which supports the entire workers' compensation program, not just the appeals program administered by the Division.

RECOMMENDATIONS CONCERNING THE A.P.A.

The Division closely follows judicial decisions concerning the application and interpretation of the Administrative Procedure Act (A.P.A.). The Division clearly recognizes that it must remain fair and impartial in all matters affecting the agencies and private parties that come before it for adjudication of their disputes. However, pursuant to its statutory mandate in section 120.65(10)(b), Florida Statutes, the Division is required to make recommendations for changes or improvements in the A.P.A. "or any agency's practice or policy with respect thereto." Further, section 120.65 was amended in 2006 to require the Division to include recommendations as to the types of cases that should be conducted under the summary hearing process described in section 120.574, Florida Statutes. § 120.65(10)(c), Fla. Stat. Finally,

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section 120.65 was amended to require the Division's report to include information regarding each agency's compliance with the filing requirement in section 120.57(1)(m), Florida Statutes.

This year, as in the past, bills have been filed in the Florida Senate and House of Representatives, which relate to providing administrative hearing rights at the Division to individuals who are aggrieved by certain agency actions. One area of proposed legislation concerns the imposition of a 3.5 percent penalty on those required to file electronically who fail to do so. Another extends the time for filing a notice of intent to protest the terms, specifications, or conditions in procurement cases from 72 hours to seven days. Yet another would require the payment of a \$200 filing fee by persons claiming employment discrimination through the Florida Commission on Human Relations. The intent behind this legislation is to dissuade persons from filing frivolous actions which increase the cost of litigation on businesses since many petitions are filed merely because there is no cost associated with initiating suit. It is expected the passage of this bill would result in a decrease of as many as 25 percent of the discrimination cases that are filed with the Division. Other bills have been filed which would require agencies to use their rulemaking authority or see it removed after the passage of time. The Division is following all of these pieces of legislation and will implement any changes to the law mandated by the Florida Legislature. The Division has now heard cases concerning individuals who were wrongfully incarcerated, and will hear matters related to the “Call Before You Dig” program, which protects the public from accidents occurring when a contractor digs and creates a dangerous condition by severing a gas or utility line during excavation.

The Division continues to perform Special Master duties under contract with the Florida Senate, and the Administrative Law Judges assigned to hear legislative claim bills will continue

**DIVISION OF ADMINISTRATIVE HEARINGS
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to be called upon to support their decisions before the appropriate Senate committees and, when requested, on the Senate floor. Many high profile claim bills have been heard by the Division's judges serving as Special Masters and positive feedback has been given to the Division by Senate leadership. The Division has taken on these new matters without the addition of new judges or support staff. In fact, as previously mentioned, the Division has lost two administrative law judge positions in the past three years, but has not experienced any reduction in the timeliness of hearings conducted and orders issued. With additional budget cuts expected to occur in the 2012 Legislative Session, however, a loss of additional judges could result in slightly longer times to the hearing and ultimate resolution of matters brought before the Division.

As noted above, the Division has experienced immense growth in the use of filing of pleadings, orders, and other documents by electronic means since mandatory electronic filing has become the law. Under this system, registered users of the electronic filing program realize the efficiencies and savings afforded by not using the mail, both regular and overnight, courier services to file papers with the Division, copying charges and materials, and staff time to carry out each of these functions. Since the system is now mandatory, not only has the Division saved costs, but the users of the system will realize great savings in time, effort, and the cost of materials and staff. Moreover, electronic filing has allowed all filed pleadings to be made available immediately on the Division's website for use by the public, thereby adding to the transparency of the work performed by the Division. Realizing that not everyone has access to a computer, the legislation carved out an exception to the requirement of electronic filing for those

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unable to gain reasonable access to a computer for filing documents. Many self-represented litigants have chosen to use the electronic filing system, even though not required to by law.

The summary hearing process set forth in section 120.574, Florida Statutes, has been selected by agencies and private parties only in rare instances since its enactment in 1998. In fact, to date, fewer than 20 cases have been heard by the Division under this section. As we have done numerous times in the past, we will again note that if certain regulatory agencies, namely, those responsible for the prosecution of licensure disciplinary matters, such as the Department of Business and Professional Regulation and the Department of Health, were to refer their "misdemeanor" cases (those where the only penalty sought is an administrative fine) into the summary hearing process, the Division could assist with any backlog these agencies currently experience with respect to these cases. Also, if the minor infraction cases were referred to the Division for prompt adjudication, the regulatory agencies could concentrate their efforts (and precious meeting time for the volunteer members of the professional licensing boards) on the more serious matters which pose a threat to the health, safety, and welfare of the citizens of Florida. The Division could handle these additional summary matters with its current complement of judges and support staff.

In 2009, the Division was able for the first time to offer video-teleconferencing capabilities in each of its 17 district offices around the state, as well as in the central offices in Tallahassee. As the Division has absorbed annual budget cuts, this capability has resulted in significant savings in costs and time, since the judges assigned to cases outside of Tallahassee are able to conduct many hearings via video, allowing them to maximize their office time to more timely issue the highly detailed orders that are required in administrative hearings. The

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video-teleconferencing technology has developed to the point where many attorneys prefer its use to the live hearing since multiple sites may be linked for a single hearing, allowing, for example, the judge and agency representatives to be in Tallahassee, the party involved in the hearing to be in Ft. Lauderdale, and perhaps even a witness to appear in Orlando, rather than having everyone travel to one location. The Workers' Compensation Appeals program has further utilized video teleconferencing to allow judges in districts that have experienced a downturn in the number of cases filed to alleviate some of the backlog in those districts still experiencing high volume. The use of video teleconferencing saves the cost of these judges traveling across the state and still provides a high-quality means of hearing the cases in a timely fashion.

In addition to the use of video teleconferencing for hearings, video teleconferencing has become an invaluable training tool, allowing us to connect multiple cities to our trainers in Tallahassee, rather than sending people on the road to perform in-service training.

Pursuant to the requirement contained in section 120.65(10)(d), Florida Statutes, many agencies have improved the timeliness of filing their final orders with the Division. In this past fiscal year, 11 of the 17 reported agencies employing the services of the Division have completely or substantially complied with the 15-day filing requirement (Agency for Health Care Administration, Agency for Persons with Disabilities, Department of Agriculture and Consumer Services, Department of Elder Affairs, Department of Environmental Protection, Department of Financial Services, Department of Health, Department of Juvenile Justice, Office of the Governor, Department of Revenue, and Department of Transportation). Overall, of the agency final orders filed with the Division between July 1, 2010, and June 30, 2011, 66 percent were

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filed within 15 days of entry by the agency. The Division once again intends to remind the agencies of the statutory requirement to timely file their final orders; filing these final orders electronically makes the task a simple one for the agencies.

Finally, in 2008, the Legislature designated the Division as an alternative for agencies who seek help in indexing their final orders pursuant to section 120.53(1)(a)2.b., Florida Statutes. Agencies may now designate the Division to keep, in an electronic format, all of their final orders and make those orders available to the public in a searchable database. Nine agencies, Agency for Persons with Disabilities, Department of Agriculture and Consumer Services, Department of Business and Professional Regulation, Department of Children and Families, Department of Community Affairs, Department of Economic Opportunity, Department of Education, Department of Environmental Protection, and Department of Highway Safety and Motor Vehicles have already taken advantage of this service, and several agencies are now in the process of electronically transmitting these orders to the Division, which will publish them on its website for public use. As more agencies take advantage of this service, the Division may have to increase its data storage capabilities.

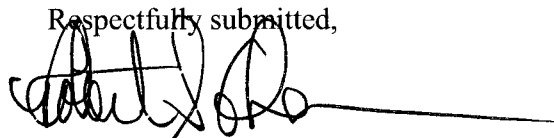
CONCLUSION

The Division continues to supply high-quality adjudication of disputes pursuant to chapter 120, the Administrative Procedure Act, despite another annual increase in its caseload. Therefore, the Division constantly seeks ways to make the process more affordable to state agencies and citizens, and continues to expand its base to counties, cities, and other users of its program in order to reduce the cost of providing services. In the coming year, the Division will continue to focus its efforts on improved technology in order to streamline the electronic filing of

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all matters before it, as well as to improve access to the public for research, order preparation, and archiving. Thus, through the elimination of programs that are not cost-effective; the elimination of personnel no longer needed in the face of improved technology; through promoting alternative dispute resolution short of hearing; the encouragement toward agencies to take advantage of the summary hearing process; and the increase in the number of non-state agencies contracting for the Division's services, the Division contributes to the goal of efficient government. To conclude, our number one concern is to ensure that all who appear before the Division are afforded due process in a fair and impartial setting, before a judge who treats them with respect and has a thorough understanding of the law to be applied in the matter at hand. We shall accomplish this without sacrificing quality and fairness in the Adjudication of Disputes program, and shall accomplish our goals without requesting additional funding from the Legislature.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. S. Cohen', followed by a long horizontal line extending to the right.

ROBERT S. COHEN
Director and Chief Judge

RSC/lrs

HEARING HOURS HELD REPORT
FY 2010-2011
For the Period 07/01/10 through 6/30/2011

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	PRORATED AMOUNT OF FY 2012-13 LBR
AHCA	5.00	21.00	303.00	329.00	7.62943%	\$537,837
AGR	0.25	0.25	8.00	8.50	0.19711%	\$13,895
APD	1.75	5.00	56.50	63.25	1.46675%	\$103,399
DBPR	2.75	15.00	243.75	261.50	6.06412%	\$427,490
DCF	4.00	7.25	191.00	202.25	4.69013%	\$330,631
DEO	1.00	5.00	258.25	264.25	6.12789%	\$431,986
CIT	0.00	0.00	0.00	0.00	0.00000%	\$0
COR	0.00	0.00	1.00	1.00	0.02319%	\$1,635
DOE	0.50	6.25	173.25	180.00	4.17416%	\$294,257
ELDER	0.00	0.50	9.25	9.75	0.22610%	\$15,939
DEP	8.00	11.00	350.25	369.25	8.56282%	\$603,636
ETH	0.00	1.00	32.50	33.50	0.77686%	\$54,765
FEC	0.00	0.25	5.25	5.50	0.12754%	\$8,991
FWCC	0.00	0.00	0.00	0.00	0.00000%	\$0
GOV	0.00	0.00	24.50	24.50	0.56815%	\$40,052
DMA	0.00	0.00	0.00	0.00	0.00000%	\$0
DOH	4.00	10.75	242.75	257.50	5.97136%	\$420,951
HSM	1.50	5.00	5.50	12.00	0.27828%	\$19,617
DFS	3.50	8.50	89.25	101.25	2.34796%	\$165,520
JUV	0.00	0.50	14.75	15.25	0.35364%	\$24,930
DLE	0.25	0.75	47.00	48.00	1.11311%	\$78,469
DLA	0.00	0.00	0.00	0.00	0.00000%	\$0
LOT	0.00	0.00	0.00	0.00	0.00000%	\$0
DMS	12.00	19.50	548.75	580.25	13.45585%	\$948,569
PSC	0.00	0.00	0.00	0.00	0.00000%	\$0
REV	1.25	5.25	1520.25	1526.75	35.40495%	\$2,495,873
DOS	0.25	0.00	0.00	0.25	0.00580%	\$409
DOT	0.00	0.25	18.50	18.75	0.43481%	\$30,652
VET	0.00	0.00	0.00	0.00	0.00000%	\$0
TOTAL:	46.00	123.00	4143.25	4312.25	100.00000%	\$7,049,503

NOTE: Hearing hours held in contract cases (water management districts, regional planning councils, cities, counties, school district/educational entity cases, etc.), NICA cases, and other miscellaneous cases are reported separately.

*Prior to prorating among state agencies, DOAH's FY 2012-13 Legislative Budget Request totaling \$8,187,627 was adjusted to reflect estimated revenue of \$577,943 from contract entities, payment of \$595,378 from the Workers' Compensation Appeals Program for general management and administrative services costs, estimated revenue of \$68,828 from cases filed pursuant to Chapter 403, Florida Statutes, and the estimated nonoperating cost of \$104,025 for state agency video teleconferencing hearings.

6/30/2011

Appendix 1

HEARING HOURS HELD BY CONTRACT/EDUCATIONAL/OTHER AGENCIES
FY 2010-2011

For the Period 07/01/10 through 6/30/11

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF HOURS ALL AGENCIES
CONTRACT	4.50	8.00	150.00	162.50	3.13601%
EPP	0.00	0.00	30.00	30.00	0.57895%
TL	0.00	0.00	0.00	0.00	0.00000%
MA	1.25	0.50	19.50	21.25	0.41009%
NICA	11.00	10.00	16.25	37.25	0.71887%
OTHER	0.00	0.00	0.00	0.00	0.00000%
SENATE CLAIM	1.75	0.00	48.25	50.00	0.96492%
SCHBDS	35.00	30.00	503.50	568.50	10.97120%
TOTAL:	53.50	48.50	767.50	869.50	16.78005%

CONTRACT: Water Management Districts, Regional Planning Councils, Cities, Counties, etc., as specified in § 120.65(11), Fla. Stat.

EPP: Cases filed by DEP, pursuant to Ch. 403, Fla. Stat.

TL: Transmission line siting cases filed by DEP, pursuant to Ch. 403, Fla. Stat.

MA: Medical Arbitration

NICA: Florida Birth-Related Neurological Injury Compensation Association

OTHER: Noncontract entities such as Victims of Wrongful Incarceration Compensation Act

SENATE CLAIM BILLS: Excess judgment claims and equitable claims, pursuant to Senate Rules 4.81

SCHBDS: School boards and other educational entities specified in § 120.65(11), Fla. Stat.

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2010 - 2011

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	0	10	10
Bureau of License and Bond	8	3	11
Office of Citrus License and Bond	1	0	1
Division of Consumer Services	1	1	2
Division of Food and Safety	2	0	2
Bureau of Entomology and Pest Control	1	0	1
Division of Licensing	1	0	1
Agency Total	14	14	28
Agency for Persons with Disabilities			
Agency for Persons with Disabilities	14	33	47
Cost Plan Review	1	0	1
Tier Waiver System	2	0	2
Agency Total	17	33	50
Agency for Workforce Innovation			
Agency for Workforce Innovation	1	0	1
Agency Total	1	0	1
Department of Children and Family Services			
Department of Children and Family Services	2	2	4
Exemption Ch. 435, position of special trust	33	29	62
Family Safety and Preservation Programs	43	45	88
Office of Licensure and Certification	1	4	5
Non-Baker Act Total	79	80	159
Contract Hearings			
Claim Bill (Senate)	31	9	40
City of Clearwater	0	1	1
Code Enforcement	0	1	1
City of Tallahassee	2	0	2
Emerald Coast Utilities Authority	4	1	5
Monroe County	0	1	1
Northwest Florida State College	0	1	1
Pinellas County	3	3	6
Tampa Bay Regional Planning Council	0	1	1
Tampa Bay Water, a Regional Water Supply Authority	0	1	1
Agency Total	40	19	59
Commissions			
Florida Commission on Ethics	6	3	9
Florida Commission on Human Relations	94	49	143
FCHR, Fair Housing Act	23	16	39
Florida Elections Commission	7	6	13
Hillsborough County Public Transportation Commissi	1	0	1
Agency Total	131	74	205
Department of Corrections			
Department of Corrections	1	1	2
Agency Total	1	1	2
County School Boards			
Bay County School Board	0	1	1

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2010 - 2011

AGENCY	Jul-Dec	Jan-June	TOTAL
Brevard County School Board	2	3	5
Broward County School Board	21	30	51
Columbia County School Board	0	1	1
Miami-Dade County School Board	26	37	63
Duval County School Board	1	8	9
Escambia County School Board	3	2	5
Flagler County School Board	3	0	3
Gulf County School Board	1	0	1
Hamilton County School Board	1	0	1
Hardee County School Board	0	1	1
Hernando County School Board	0	1	1
Hillsborough County School Board	4	5	9
Jackson County School Board	1	0	1
Jefferson County School Board	0	1	1
Lake County School Board	2	5	7
Lee County School Board	6	9	15
Leon County School Board	0	1	1
Manatee County School Board	6	1	7
Marion County School Board	2	0	2
Monroe County School Board	0	2	2
Okaloosa County School Board	1	0	1
Orange County School Board	11	12	23
Osceola County School Board	0	3	3
Palm Beach County School Board	8	13	21
Section 504 cases	1	2	3
Pasco County School Board	2	3	5
Pinellas County School Board	4	4	8
Polk County School Board	1	3	4
St Johns County School Board	3	6	9
St Lucie County School Board	3	2	5
Sarasota County School Board	3	3	6
Seminole County School Board	6	11	17
Volusia County School Board	3	2	5
Walton County School Board	0	1	1
School for the Deaf and Blind	2	0	2
Teacher Termination or Suspension (Obsolete as of 0	1	1	2
Agency Total	128	174	302
Department of Community Affairs			
Department of Community Affairs	41	10	51
Division of Community Planning	4	2	6
Small Scale Comprehensive Plan Amendment	2	0	2
Agency Total	47	12	59
Department of Elder Affairs			
Department of Elder Affairs	0	12	12
Agency Total	0	12	12
Department of Environmental Protection			
Department of Environmental Protection	36	25	61
Agency Total	36	25	61
Department of Financial Services			
Department of Financial Services	0	1	1
Division of Insurance Agents and Agencies Services	16	31	47

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2010 - 2011

AGENCY	Jul-Dec	Jan-June	TOTAL
Bureau of Unclaimed Property	2	1	3
Division of State Fire Marshal	3	1	4
Division of Funeral, Cemetery, and Consumer Servic	9	8	17
Financial Services Commission	1	0	1
Neurological Injury	18	22	40
Division of Workers` Compensation	65	56	121
Agency Total	114	120	234
Department of Health			
Department of Health	6	21	27
Bureau of Testing Services	1	1	2
Board of Chiropractic	1	4	5
Clinical Laboratory Personnel	0	1	1
Board of Clinical Social Work, Marriage and Family	2	1	3
Board of Dentistry	3	11	14
Drugs, Devices, and Cosmetics Program	3	17	20
Environmental Health	7	7	14
Bureau of Emergency Medical Services	0	1	1
Board of Medicine	20	26	46
Board of Massage Therapy	3	3	6
Council of Licensed Midwifery	1	0	1
Board of Nursing	6	2	8
Board of Orthotists and Prosthetists	1	1	2
Board of Pharmacy	11	1	12
Board of Psychology	0	1	1
Board of Physical Therapy Practice	1	3	4
Agency Total	66	101	167
Department of Juvenile Justice			
Department of Juvenile Justice	3	9	12
Agency Total	3	9	12
Department of Law Enforcement			
Criminal Justice Standards and Training Commission	28	24	52
Agency Total	28	24	52
Department of Management Services			
Division of State Group Insurance	2	7	9
Division of Retirement	7	5	12
Agency Total	9	12	21
Department of Education			
Department of Education	0	2	2
Confidential Vocational Rehabilitation Cases	2	10	12
Education Practices Commission	43	61	104
Vocational Rehabilitation Services	10	5	15
Agency Total	55	78	133
Department of State			
Division of Historical Resources	1	0	1
Agency Total	1	0	1
Department of Transportation			
Department of Transportation	10	6	16

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2010 - 2011

AGENCY	Jul-Dec	Jan-June	TOTAL
Agency Total	10	6	16
Department of Business and Professional Regulation			
Department of Business and Professional Regulation	0	1	1
Board of Architecture	6	2	8
Board of Auctioneers	0	2	2
Barber`s Board	1	0	1
Building Code Administrators and Inspectors	4	2	6
Regulatory Council of Community Assoc. of Managers	9	7	16
Construction Industry Licensing Board	28	27	55
Division of Alcoholic Beverages and Tobacco	16	18	34
Division of Real Estate	28	20	48
Electrical Contractors	5	1	6
Florida Real Estate Appraisal Board	2	0	2
Florida Real Estate Commission	3	1	4
Division of Hotels and Restaurants	63	58	121
Division of Land Sales, Condominiums, and Mobile H	4	2	6
Non-licensed Respondent	19	10	29
Division of Pari-Mutuel Wagering	2	8	10
Board of Professional Engineers	2	5	7
Board of Talent Agencies	0	1	1
Board of Veterinary Medicine	5	5	10
Agency Total	197	170	367
Florida Housing Finance Corporation			
Florida Housing Finance Corporation	2	0	2
Agency Total	2	0	2
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	0	1	1
Agency Total	0	1	1
Office of the Governor			
Florida Land and Water Adjudicatory Commission	5	1	6
Florida Land and Water Adjudicatory Commission, Co	2	1	3
Agency Total	7	2	9
Agency for Health Care Administration			
Agency for Health Care Administration	1	18	19
Audit Quality Control Services	0	3	3
Office of Certificate of Need	17	7	24
Bureau of Health Facility Regulation	4	44	48
Medicaid Cost Reimbursement	2	2	4
Medicaid Program Integrity	25	36	61
Office of Licensure and Certification	70	38	108
Agency Total	119	148	267
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	14	9	23
Section 320.642	18	14	32
Agency Total	32	23	55
Medical Arbitration			
Medical Arbitration	6	5	11

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2010 - 2011

AGENCY	Jul-Dec	Jan-June	TOTAL
Agency Total	6	5	11
Office of Financial Regulation			
Office of Financial Regulation	7	4	11
Agency Total	7	4	11
Office of Insurance Regulation			
Office of Insurance Regulation	2	2	4
Agency Total	2	2	4
Original Sentencing Court			
Victims of Wrongful Incarceration Act	0	1	1
Agency Total	0	1	1
Department of Revenue			
Department of Revenue	21	35	56
Child Support Enforcement Program	1,141	1,181	2,322
Agency Total	1,162	1,216	2,378
State Board of Administration			
State Board of Administration	1	2	3
Agency Total	1	2	3
Universities and Colleges			
Florida A & M University	2	0	2
Florida Gulf Coast University	0	1	1
University of Central Florida	0	1	1
Agency Total	2	2	4
Water Management Districts			
Northwest Florida Water Management District	1	0	1
South Florida Water Management District	5	0	5
St. Johns River Water Management District	4	1	5
Suwannee River Water Management District	2	0	2
Southwest Florida Water Management District	5	1	6
Agency Total	17	2	19
NON BAKER ACT TOTAL	2,334	2,372	4,706
Baker Acts			
Department of Veterans Affairs	7	2	9
Florida State Hospital	184	166	350
Geo Group, Inc.	2	2	4
Lake Correctional Institution	9	15	24
Meridian Behavioral Healthcare, Inc.	1	0	1
Northeast Florida State Hospital	366	391	757
Northside Mental Health Center	0	1	1
Peace River Center	5	8	13
Personal Enrichment Mental Health Services	1	1	2
Shands at the University of Florida	0	1	1
Shands at Vista	1	2	3
South Florida State Hospital	282	259	541
West Florida Community Care Center	35	29	64
Baker Act Total	893	877	1,770

SUMMARY
Division of Administrative Hearings
Actual, Estimated and Requested Expenditures

Adjudication of Disputes

	Actual Expenditures <u>FY 2010-11</u>	Estimated Expenditures <u>FY 2011-12</u>	Requested Expenditures <u>FY 2012-13</u>
<u>Appropriation Category</u>			
Salaries and Benefits	\$6,885,982	\$6,733,106	\$6,714,830
Other Personal Services	8,182	20,091	20,091
Expenses	1,135,881	1,092,936	1,058,610
Operating Capital Outlay	64,981	65,000	63,929
Special Categories			
Contracted Services	188,660	188,914	187,898
Risk Mgmt. Ins.	38,962	67,092	67,092
Lease/Purch/Equip	0	0	31,500
TR/DMS/HR SVCS	24,235	21,652	21,652
Data Processing Svcs	0	0	22,025
Total Program Budget	<u>\$8,346,883</u>	<u>\$8,188,791</u>	<u>\$8,187,627</u>
Total Program Positions	68	67	67

Workers' Compensation Appeals

	Actual Expenditures <u>FY 2010-11</u>	Estimated Expenditures <u>FY 2011-12</u>	Requested Expenditures <u>FY 2012-13</u>
<u>Appropriation Category</u>			
Salaries and Benefits	\$13,732,211	\$12,681,350	\$12,681,350
Other Personal Services	29,284	17,836	17,836
Expenses	3,027,177	2,879,733	2,748,792
Operating Capital Outlay	72,205	25,916	24,844
Special Categories			
Contracted Services	1,023,646	994,049	993,033
Contracted Legal Svcs.	0	1,279	1,279
Risk Mgmt. Ins.	80,743	85,363	85,363
Lease/Purchase/Equip	0	0	123,000
TR/DMS/HR SVCS	70,605	63,079	63,079
Data Processing Svcs	0	0	9,525
Total Program Budget	<u>\$18,035,871</u>	<u>\$16,748,605</u>	<u>\$16,748,101</u>
Total Program Positions	198	182	182

TOTAL DIVISION BUDGET	<u>\$26,382,754</u>	<u>\$24,937,396</u>	<u>\$24,935,728</u>
TOTAL DIVISION POSITIONS	266	249	249

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#: 39

PERIOD: *July 1, 2011 - June 30, 2012*

DATE: February 1, 2013

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Robert S. Cohen, Chief Judge

PAGES: 24

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2012



STATE OF FLORIDA

DIVISION OF ADMINISTRATIVE HEARINGS



February 1, 2013

THIRTY-NINTH ANNUAL REPORT

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**DIVISION OF ADMINISTRATIVE HEARINGS
THIRTY-NINTH ANNUAL REPORT**

INTRODUCTION

This report is submitted to the Joint Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of section 120.65(10), Florida Statutes, which provides:

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.
- (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).

GENERAL

The Division of Administrative Hearings administers two programs. One, which is the subject of this report, is the Adjudication of Disputes program that operates pursuant to chapter 120, Florida Statutes. The other is the Workers' Compensation Appeals program, Office of the Judges of Compensation Claims (OJCC), which operates pursuant to chapter 440, Florida Statutes. Section 440.45(5), Florida Statutes, requires the OJCC to issue an annual report to the Governor, the House of Representatives, the Senate, The Florida Bar, and the statewide nominating commission. This report was submitted on November 13, 2012. Accordingly, the present report will focus primarily on the Adjudication of Disputes program. However, because

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THIRTY - NINTH ANNUAL REPORT**

the headquarters element of the Division must support both programs, this report necessarily must include some information addressing the OJCC.

UTILIZATION RATES

Appendix 1 breaks out by agency the utilization rates of Division resources and demonstrates, in descending order, that 12 agencies utilized 94 percent of the Division's docket: the Department of Revenue, the Department of Management Services, the Department of Children and Families, the Agency for Health Care Administration, the Department of Education, the Department of Business and Professional Regulation, the Department of Financial Services, the Department of Environmental Protection, the Department of Health, the Department of Highway Safety and Motor Vehicles, the Department of Economic Opportunity, and the Agency for Persons with Disabilities. Additionally, entities such as water management districts, cities, counties, school districts, and other educational entities, are significant users of the Division's services and are reported separately since they are covered by contractual agreements.

During FY 2011-2012, state agencies and other governmental entities referred 5,428 requests for assignment of an administrative law judge compared to 6,476 requests filed the previous year. Although there was a moderate decrease in the number of cases filed, most of the decrease occurred in the latter half of the last fiscal year. The Division is currently experiencing an upward trend and anticipates the cases returning to a more normal volume by the end of the current fiscal year. This is explained in part by the implementation of a new system by the Department of Revenue, Child Support Enforcement, which is expected to generate more referrals beginning in March 2013. Once the new system is fully implemented by the Department of Revenue, the number of cases referred is expected to reach the high level of

**DIVISION OF ADMINISTRATIVE HEARINGS
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previous years. Requests for assignment of Administrative Law Judges from the following seven agencies constitute 8 percent of our fiscal year caseload: the Department of Corrections (11 cases, a 450 percent increase over the 2 cases filed in FY 2010-2011), the Florida Housing Finance Corporation (13 cases, a 550 percent increase over the 2 cases filed in FY 2010-2011), the Florida Fish and Wildlife Conservation Commission (6 cases, an increase of 500 percent over the 1 case filed in FY 2010-2011), the Agency for Health Care Administration (340 cases, an increase of 27 percent over the 267 cases filed in FY 2010-2011), the Office of Financial Regulation (20 cases, an increase of 82 percent over the 11 cases filed in FY 2010-2011), the Office of Insurance Regulation (5 cases, an increase of 25 percent over the 4 cases filed in FY 2010-2011), and the Water Management Districts (25 cases, an increase of 32 percent over the 19 cases filed in FY 2010-2011).

UTILIZATION OF PERSONNEL

As of June 30, 2012, the Adjudication of Disputes program had 67 established positions consisting of the Director and Chief Judge, the Deputy Chief Judge, 32 Administrative Law Judges, seven Administrative Secretaries, seven Administrative Assistants, one Budget Officer, one Executive Assistant, two Staff Assistants, one Administrative Services Director, one Personnel Officer, one Purchasing Agent, one Accountant Supervisor, one Database Administrator, one Office Automation Specialist, one Distributed Computer Systems Analyst, one Systems Programmer, one Clerk of the Division, two Commission Deputy Clerks, two Deputy Clerks, and two Senior Clerks. With one Administrative Secretary or Administrative Assistant assigned to three judges, this represents a highly efficient model for the adjudicatory process. Our judges utilize a minimum of administrative personnel to perform their assigned tasks.

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The Workers' Compensation Appeals program had 182 established positions consisting of one Deputy Chief Judge of Compensation Claims, 32 Judges of Compensation Claims, 32 State Mediators, 32 Executive Secretaries, 35 Deputy Clerks (32 in field offices and three in central Clerk's Office), one Deputy Clerk Supervisor, five Commission Deputy Clerks, four Administrative Assistants, 31 Administrative Secretaries, one Secretary Specialists, one Senior Management Analyst, two Accountants, one Court Reporter, one Distributed Computer Systems Administrator, one Distributed Computer Systems Analyst, one Distributed Computer Systems Specialist, and one Senior Attorney. The Legislature, in 2012 made additional personnel cuts to the Division. As of July 1, 2012, the Adjudication of Disputes program had been reduced to 65 established positions with the elimination of one judge and one support position. The Workers' Compensation Appeals Program was reduced to 177 established positions. In an extremely high-volume area of the law and in recognition of the economic downturn, the program constantly seeks ways to combine staff positions and responsibilities in the interest of cost savings.

HEARING REQUESTS

During FY 2011-12, the Division processed 5,428 hearing requests compared to 6,476 cases filed the previous fiscal year. Of the total cases filed, 1,729 were Baker Act cases. The remaining 3,699 cases were primarily filed pursuant to sections 120.56, 120.569, and 120.57(1), Florida Statutes. Most notable were the referrals from the Florida Housing Finance Corporation, which increased its referrals by 550 percent with 13 cases filed this fiscal year compared to two cases previously reported. Other cases filed are itemized by agency in the attached Appendix 2.

In FY 2011-12, each Administrative Law Judge conducted an average of 143 hearings and wrote an average of 64 Recommended or Final Orders of varying length and complexity. In

**DIVISION OF ADMINISTRATIVE HEARINGS
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addition, each Judge closed an average of 57 cases, which were settled or otherwise dismissed without a final hearing. The case closure data does not include Baker Act closures.

INFORMATION TECHNOLOGY

The Division maintains two mission-critical databases and applications: the DOAH Case Management System (CMS) and the OJCC Case Management System (JCC). Associated applications include full-text retrieval and document indexing of orders issued by the Division's Administrative Law Judges and Judges of Compensation Claims. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include word-processing, electronic mail, and online legal research via LexisNexis and other Internet resources.

In 2012, the Division continued its implementation of the electronic-filing applications. Effective July 1, 2011, under chapter 2011-208, section 7, Laws of Florida, electronic filing became mandatory for all parties, except those representing themselves in administrative law or workers' compensation cases. In 2012, for the OJCC, 479,832 documents were electronically filed by practitioners. For the Adjudication of Disputes, 31,744 documents were electronically filed. Electronic service of orders issued by the OJCC and by Administrative Law Judges has been implemented in all cases where the parties of record have provided email addresses to the Division. The savings to the users of electronic filing, in terms of paper, postage, and time, has already registered in the tens of thousands of dollars.

Under section 120.53(2)(a), Florida Statutes, all state agencies now have an option to electronically transmit their agency orders to the Division's website for indexing purposes. To date, the following agencies have taken advantage of this provision: Department of Agriculture and Consumer Services, Department of Children and Families, Department of Economic

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Opportunity, Department of Environmental Protection, Department of Education, Department of Business and Professional Regulation, Department of Highway Safety and Motor Vehicles, Department of Health, and the Office of the Governor. We expect additional agencies will enroll in this no cost program in the coming year.

OPERATING BUDGET

The Division is 100 percent trust funded. Appendix 3 summarizes the actual, estimated, and requested expenditures for the Division's programs for FY 2011-12, FY 2012-13, and FY 2013-14, respectively.

For the Adjudication of Disputes program, each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours conducted by its judges for all agencies. Based on this data, the Division's budget is prorated among the state agencies utilizing its services, and the Legislature appropriates fund transfers to the Division from those agencies. Hence, the amount each agency transfers to the Division is based on the amount of time the judges spend in pre-hearing conferences, motion hearings, and final hearings for each agency in a given year. Beginning in FY 2003-04, data on cancelled and continued hearings were excluded from the report under the theory that the agencies should not be penalized for encouraging the resolution of disputes short of proceeding to hearing. In October 2012, the Division submitted its twenty-sixth "Hearing Hours Held" report (see Appendix 1). In FY 2011-12, 4,704 hearing hours were held. (Appendix 1 excludes Baker Act hearing hours, which totaled 245 in FY 2011-12.)

The Division is also authorized to enter into contracts with non-state entities such as cities, counties, regional planning councils, water management districts, school districts, and other educational entities for the provision of Administrative Law Judge services. The Division

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executed a contract with the Florida Legislature in late 2006 which has subsequently been renewed each year, and the Division's judges hear all Florida Senate claim bills that require a hearing before a Special Master. Contract organizations reimburse the Division for the costs of its services at a rate that is based on a total-cost-recovery methodology. The current contract rate is \$141 an hour, a most reasonable rate for adjudicatory services by experienced lawyer-judges.

The Division has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA's) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to non-state entities. This has been accomplished by revising each year the hourly rate that is paid by the non-state entities for Administrative Law Judge services, by marketing the Division's services to attract new non-state entities, and by backing out these revenues before the budget is prorated among the state agencies. The assessment for administrative support that is paid by the Workers' Compensation Appeals program is also backed out before the budget is prorated. Hence, state agency transfers have been reduced by about \$1.17 million in the Division's FY 2013-14 Legislative Budget Request. In the coming year, the Director and other members of the Division's staff will continue their efforts to solicit new contractual business from local government entities to further offset the cost of supporting the Division that is borne by our state agencies.

The Workers' Compensation Appeals program is supported by cash transfers from the Workers' Compensation Administration Trust Fund that is administered by the Department of Financial Services. This trust fund is funded through a workers' compensation premium tax assessment which supports the entire workers' compensation program, not only the appeals program administered by the Division.

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RECOMMENDATIONS CONCERNING THE A.P.A.

The Division closely follows judicial decisions concerning the application and interpretation of the Administrative Procedure Act (A.P.A.). The Division clearly recognizes that it must remain fair and impartial in all matters affecting the agencies and private parties that come before it for adjudication of their disputes. However, pursuant to its statutory mandate in section 120.65(10)(b), Florida Statutes, the Division is required to make recommendations for changes or improvements in the A.P.A. "or any agency's practice or policy with respect thereto." Further, section 120.65 was amended in 2006 to require the Division to include recommendations as to the types of cases that should be conducted under the summary hearing process described in section 120.574, Florida Statutes. § 120.65(10)(c), Fla. Stat. Finally, section 120.65 was amended to require the Division's report to include information regarding each agency's compliance with the filing requirement in section 120.57(1)(m), Florida Statutes.

This year, a bill has been filed in the House of Representatives which extends the time for filing a notice of intent to protest the terms, specifications, or conditions in procurement cases from 72 hours to seven days. Another bill has been filed which provides that a challenge to a consolidated environmental resource permit or an associated variance or a sovereign submerged lands authorization proposed or issued by DEP in connection with the state's deepwater ports listed in section 403.021(9) shall be conducted pursuant to the summary hearing provisions of section 120.574. The Division is following all of these pieces of legislation and will implement any changes to the law mandated by the Florida Legislature. The Division has now heard cases concerning individuals who were wrongfully incarcerated, and has been authorized to hear matters related to the "Call Before You Dig" program, which protects the public from accidents occurring when a contractor digs and creates a dangerous condition by severing a gas or utility line during excavation.

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The Division is expected to continue to perform Special Master duties under contract with the Florida Senate, and, when these matters are referred to the Division, the Administrative Law Judges assigned to hear legislative claim bills will continue to be called upon to support their decisions before the appropriate Senate committees and, when requested, on the Senate floor. Many high profile claim bills have been heard by the Division's judges serving as Special Masters and positive feedback has been given to the Division by Senate leadership. The Division has taken on these new matters without the addition of new judges or support staff. In fact, as previously mentioned, the Division has lost two administrative law judge positions in the past four years, but has not experienced any reduction in the timeliness of hearings conducted and orders issued. With additional budget cuts expected to occur in the 2013 Legislative Session, however, a loss of additional judges could result in slightly longer times to the hearing and ultimate resolution of matters brought before the Division.

As noted above, the Division has experienced immense growth in the use of filing of pleadings, orders, and other documents by electronic means since mandatory electronic filing has become the law. Under this system, registered users of the electronic filing program realize the efficiencies and savings afforded by not using the mail, both regular and overnight, courier services to file papers with the Division, copying charges and materials, and staff time to carry out each of these functions. Since the system is now mandatory, not only has the Division saved costs, but the users of the system will realize great savings in time, effort, and the cost of materials and staff. Moreover, electronic filing has allowed all filed pleadings to be made available immediately on the Division's website for use by the public, thereby adding to the transparency of the work performed by the Division. Realizing that not everyone has access to a computer, the legislation carved out an exception to the requirement of electronic filing for those

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unable to gain reasonable access to a computer for filing documents. Many self-represented litigants have chosen to use the electronic filing system, even though not required to by law.

The summary hearing process set forth in section 120.574, Florida Statutes, has been selected by agencies and private parties only in rare instances since its enactment in 1998. In fact, to date, only three cases have been heard by the Division under this section. As we have done numerous times in the past, we will again note that if certain regulatory agencies, namely, those responsible for the prosecution of licensure disciplinary matters, such as the Department of Business and Professional Regulation and the Department of Health, were to refer their "misdemeanor" cases (those where the only penalty sought is an administrative fine) into the summary hearing process, the Division could assist with any backlog these agencies currently experience with respect to these cases. Also, if the minor infraction cases were referred to the Division for prompt adjudication, the regulatory agencies could concentrate their efforts (and precious meeting time for the volunteer members of the professional licensing boards) on the more serious matters which pose a threat to the health, safety, and welfare of the citizens of Florida. The Division could handle these additional summary matters with its current complement of judges and support staff.

In 2009, the Division was able for the first time to offer video-teleconferencing capabilities in each of its 17 district offices around the state, as well as in the central offices in Tallahassee. As the Division has absorbed annual budget cuts, this capability has resulted in significant savings in costs and time, since the judges assigned to cases outside of Tallahassee are able to conduct many hearings via video, allowing them to maximize their office time to more timely issue the highly detailed orders that are required in administrative hearings. The video-teleconferencing technology has developed to the point where many attorneys prefer its

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use to the live hearing since multiple sites may be linked for a single hearing, allowing, for example, the judge and agency representatives to be in Tallahassee, the party involved in the hearing to be in Ft. Lauderdale, and perhaps even a witness to appear in Orlando, rather than having everyone travel to one location. The Workers' Compensation Appeals program has further utilized video teleconferencing to allow judges in districts that have experienced a downturn in the number of cases filed to alleviate some of the backlog in those districts still experiencing high volume. The use of video teleconferencing saves the cost of these judges traveling across the state and still provides a high-quality means of hearing the cases in a timely fashion.

In addition to the use of video teleconferencing for hearings, video teleconferencing has become an invaluable training tool, allowing us to connect multiple cities to our trainers in Tallahassee, rather than sending people on the road to perform in-service training.

Pursuant to the requirement contained in section 120.65(10)(d), Florida Statutes, many agencies have improved the timeliness of filing their final orders with the Division. In this past fiscal year, 12 of the 19 reported agencies employing the services of the Division have completely or substantially complied with the 15-day filing requirement (Agency for Health Care Administration, Agency for Persons with Disabilities, Agency for Workforce Innovation, Department of Business and Professional Regulation, Department of Community Affairs, Department of Corrections, Department of Environmental Protection, Department of Financial Services, Department of Highway Safety and Motor Vehicles, Department of Management Services, Department of Revenue, and Department of Transportation). However, it is important to note that effective in October 2011, the Agency for Workforce Innovation and the Department of Community Affairs became part of a newly created agency, the Department of Economic

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Opportunity. Overall, of the agency final orders filed with the Division between July 1, 2011, and June 30, 2012, 63 percent were filed within 15 days of entry by the agency. The Division once again intends to remind the agencies of the statutory requirement to timely file their final orders. Filing these final orders electronically makes the task a simple one for the agencies.

Finally, in 2008, the Legislature designated the Division as an alternative for agencies who seek help in indexing their final orders pursuant to section 120.53(1)(a)2.b., Florida Statutes. Agencies may now designate the Division to keep, in an electronic format, all of their final orders and make those orders available to the public in a searchable database. Nine agencies (Department of Agriculture and Consumer Services, Department of Children and Families, Department of Economic Opportunity, Department of Environmental Protection, Department of Education, Department of Business and Professional Regulation, Department of Highway Safety and Motor Vehicles, Department of Health, and the Executive Office of the Governor) have already taken advantage of this service, and several agencies are now in the process of electronically transmitting these orders to the Division, which will publish them on its website for public use. As more agencies take advantage of this service, the Division may have to increase its data storage capabilities.

CONCLUSION

The Division continues to supply high-quality adjudication of disputes pursuant to chapter 120, the Administrative Procedure Act. The Division constantly seeks ways to make the process more affordable to state agencies and citizens, and continues to expand its base to counties, cities, and other users of its program in order to reduce the cost of providing services. In the coming year, the Division will continue to focus its efforts on improved technology in order to streamline the electronic filing of all matters before it, as well as to improve access to

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the public for research, order preparation, and archiving. Further, the Division is mindful of the cost of proceeding to hearing and seeks to minimize any potential delays in moving cases through the system. This ensures that individuals, small businesses, and major corporations reduce the cost, time, and opportunity lost through judicial delay. By helping matters move through the Division in an expeditious matter, the cost of litigation is reduced and the time lost in the pursuit of a remedy is reduced. Through the elimination of programs that are not cost-effective; the elimination of personnel no longer needed in the face of improved technology; through promoting alternative dispute resolution short of hearing; the encouragement toward agencies to take advantage of the summary hearing process; and the increase in the number of non-state agencies contracting for the Division's services, the Division contributes to the goal of efficient government. To conclude, our number one concern is to ensure that all who appear before the Division are afforded due process in a fair and impartial setting, before a judge who treats them with respect and has a thorough understanding of the law to be applied in the matter at hand. We shall accomplish this without sacrificing quality and fairness in the Adjudication of Disputes program, and shall accomplish our goals without requesting additional funding from the Legislature.

Respectfully submitted,



ROBERT S. COHEN
Director and Chief Judge

RSC/ljs

HEARING HOURS HELD REPORT FY 2011-2012 For the Period 07/01/11 through 6/30/2012							Appendix 1
AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	PRORATED AMOUNT OF FY 2013-14 LBR	
AGR	2.00	0.25	0.25	9.25	11.50	0.32918%	\$22,996
AHCA	4.75	18.25	206.75	229.75	229.75	6.57650%	\$459,420
APD	0.25	3.25	73.75	77.25	77.25	2.21125%	\$154,473
CIT	0.00	0.00	0.00	0.00	0.00	0.00000%	\$0
COR	1.75	2.75	36.25	40.75	40.75	1.16645%	\$81,486
DBPR	5.75	15.00	180.25	201.00	201.00	5.75354%	\$401,930
DCF	1.25	2.25	250.50	254.00	254.00	7.27065%	\$507,911
DEO	2.25	6.00	76.00	84.25	84.25	2.41162%	\$168,471
DEP	4.00	3.25	177.25	184.50	184.50	5.28124%	\$368,935
DFS	4.50	9.75	176.75	191.00	191.00	5.46730%	\$381,933
DLA	0.00	0.00	0.00	0.00	0.00	0.00000%	\$0
DLE	0.25	0.25	42.75	43.25	43.25	1.23801%	\$86,485
DMA	0.00	0.00	0.00	0.00	0.00	0.00000%	\$0
DMS	5.75	26.50	401.00	433.25	433.25	12.40160%	\$866,349
DOE	3.75	3.00	199.25	206.00	206.00	5.89667%	\$411,928
DOH	1.75	15.75	166.50	184.00	184.00	5.26692%	\$367,936
DOS	0.00	0.00	0.00	0.00	0.00	0.00000%	\$0
DOT	0.50	1.25	42.50	44.25	44.25	1.26664%	\$88,484
ELDER	0.00	0.00	0.00	0.00	0.00	0.00000%	\$0
ETH	0.25	1.25	25.00	26.50	26.50	0.75855%	\$52,991
FEC	0.75	1.50	0.00	2.25	2.25	0.06441%	\$4,499
FWCC	0.25	0.00	1.25	1.50	1.50	0.04294%	\$2,999
GOV	0.00	0.00	0.00	0.00	0.00	0.00000%	\$0
HSM	3.25	7.25	84.50	95.00	95.00	2.71934%	\$189,967
JUV	0.50	0.50	34.25	35.25	35.25	1.00902%	\$70,488
LOT	0.00	0.00	0.00	0.00	0.00	0.00000%	\$0
PSC	0.00	0.00	3.50	3.50	3.50	0.10019%	\$6,999
REV	0.75	2.50	1141.50	1144.75	1144.75	32.76800%	\$2,289,100
VET	0.00	0.00	0.00	0.00	0.00	0.00000%	\$0
TOTAL:	44.25	120.50	3328.75	3493.50	100.00000%		\$6,985,780
NOTE: Hearing hours held in contract cases (water management districts, regional planning councils, cities, counties, school district/educational entity cases, etc.), NICA cases, and other miscellaneous cases are reported separately.							
*Prior to prorating among state agencies, DOAH's FY 2013-14 Legislative Budget Request totaling \$8,066,033 was adjusted to reflect estimated revenue of \$486,807 from contract entities, payment of \$627,273 from the Workers' Compensation Appeals Program for general management and administrative services costs, estimated revenue of \$59,006 from cases filed pursuant to Chapter 403, Florida Statutes, and the estimated nonoperating cost of \$92,833 for state agency video teleconferencing hearings.							

HEARING HOURS HELD BY CONTRACT/EDUCATIONAL/OTHER AGENCIES FY 2011-2012 For the Period 07/01/11 through 6/30/12						Appendix 1
6/30/2012	AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF HOURS ALL AGENCIES
	CONTRACT	4.50	8.25	184.00	196.75	4.18261%
	EPP	0.00	0.00	0.00	0.00	0.00000%
	TL	0.00	0.00	0.00	0.00	0.00000%
	MA	1.00	3.50	42.50	47.00	0.99915%
	NICA	3.00	4.00	37.50	44.50	0.94600%
	OTHER	0.00	0.00	15.00	15.00	0.31888%
	SENATE CLAIM	1.25	0.00	18.50	19.75	0.41986%
	SCHBDS	26.00	26.25	835.25	887.50	18.86692%
	TOTAL:	35.75	42.00	1132.75	1210.50	25.73342%
CONTRACT: Water Management Districts, Regional Planning Councils, Cities, Counties, etc., as specified in § 120.65(11), Fla. Stat. EPP: Electrical Power Plant siting cases filed by DEP, pursuant to Ch. 403, Fla. Stat. TL: Transmission line siting cases filed by DEP, pursuant to Ch. 403, Fla. Stat. MA: Medical Arbitration NICA: Florida Birth-Related Neurological Injury Compensation Association OTHER: Noncontract entities such as Victims of Wrongful Incarceration Compensation Act SENATE CLAIM BILLS: Excess judgment claims and equitable claims, pursuant to Senate Rules 4.81 SCHBDS: School boards and other educational entities specified in § 120.65(11), Fla. Stat.						

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2011 - 2012

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	13	7	20
Bureau of License and Bond	0	2	2
Office of Citrus License and Bond	1	3	4
Bureau of Entomology and Pest Control	1	1	2
Agency Total	15	13	28
Agency for Persons with Disabilities			
Agency for Persons with Disabilities	21	12	33
Agency Total	21	12	33
Agency for Workforce Innovation			
Agency for Workforce Innovation	1	0	1
Agency Total	1	0	1
Department of Children and Family Services			
Department of Children and Family Services	0	4	4
Exemption Ch. 435, position of special trust	47	30	77
Family Safety and Preservation Programs	35	23	58
Office of Licensure and Certification	0	1	1
Non-Baker Act Total	82	58	140
Contract Hearings			
Broward County	0	1	1
Claim Bill (Senate)	38	0	38
City of Clearwater	1	0	1
City of Gainesville	0	2	2
City of Tallahassee	1	0	1
Emerald Coast Utilities Authority	1	0	1
Monroe County	2	0	2
Pinellas County Sheriff's Civil Service Board	0	1	1
Pinellas County	2	4	6
Agency Total	45	8	53
Department of Citrus			
Department of Citrus	0	1	1
Agency Total	0	1	1
Commissions			
Florida Commission on Ethics	5	3	8
Florida Commission on Human Relations	83	55	138
FCHR, Fair Housing Act	14	20	34
Florida Elections Commission	2	3	5
Florida Parole Commission	1	1	2
Agency Total	105	82	187
Department of Corrections			
Department of Corrections	7	4	11
Agency Total	7	4	11
County School Boards			
Alachua County School Board	0	1	1
Bay County School Board	1	1	2
Brevard County School Board	5	3	8

Division of Administrative Hearings

ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2011 - 2012

AGENCY	Jul-Dec	Jan-June	TOTAL
Broward County School Board	16	31	47
Charlotte County School Board	1	0	1
Collier County School Board	0	1	1
Miami-Dade County School Board	24	41	65
Duval County School Board	4	6	10
Escambia County School Board	1	0	1
Flagler County School Board	0	2	2
Gilchrist County School Board	1	0	1
Glades County School Board	1	0	1
Hillsborough County School Board	3	4	7
Indian River County School Board	1	1	2
Jackson County School Board	0	1	1
Lake County School Board	1	2	3
Lee County School Board	1	6	7
Leon County School Board	1	4	5
Levy County School Board	1	0	1
Manatee County School Board	4	7	11
Marion County School Board	1	0	1
Martin County School Board	0	1	1
Monroe County School Board	3	2	5
Orange County School Board	2	14	16
Osceola County School Board	3	3	6
Palm Beach County School Board	10	13	23
Section 504 cases	1	4	5
Pasco County School Board	1	1	2
Pinellas County School Board	6	5	11
Polk County School Board	0	4	4
Putnam County School Board	2	0	2
St Johns County School Board	1	1	2
St Lucie County School Board	4	6	10
Santa Rosa County School Board	1	0	1
Sarasota County School Board	0	2	2
Seminole County School Board	6	9	15
Taylor County School Board	0	1	1
Volusia County School Board	3	2	5
School for the Deaf and Blind	0	1	1
Agency Total	110	180	290
Department of Community Affairs			
Department of Community Affairs	4	0	4
Agency Total	4	0	4
Department of Economic Opportunity			
Department of Economic Opportunity	0	2	2
Agency Total	0	2	2
Department of Environmental Protection			
Department of Environmental Protection	30	22	52
Agency Total	30	22	52
Department of Financial Services			
Department of Financial Services	1	3	4
Division of Insurance Agents and Agencies Services	15	13	28
Bureau of Unclaimed Property	4	0	4
Division of State Fire Marshal	4	6	10

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2011 - 2012

AGENCY	Jul-Dec	Jan-June	TOTAL
Division of Funeral, Cemetery, and Consumer Service	9	8	17
Division of Workers' Compensation	37	35	72
Agency Total	70	65	135
Department of Health			
Department of Health	2	3	5
Board of Chiropractic	7	2	9
Board of Clinical Social Work, Marriage and Family	1	2	3
Division of Administration	1	0	1
Board of Dentistry	8	2	10
Drugs, Devices, and Cosmetics Program	1	0	1
Environmental Health	1	1	2
Bureau of Emergency Medical Services	0	1	1
Board of Hearing Aid Specialists	0	1	1
Board of Medicine	28	38	66
Board of Massage Therapy	2	1	3
Board of Nursing Home Administrators	1	1	2
Board of Nursing	12	6	18
Board of Osteopathic Medicine	0	3	3
Board of Pharmacy	5	4	9
Board of Podiatric Medicine	0	1	1
Board of Psychology	3	2	5
Board of Physical Therapy Practice	1	0	1
Agency Total	73	68	141
Department of Juvenile Justice			
Department of Juvenile Justice	3	2	5
Agency Total	3	2	5
Department of Law Enforcement			
Criminal Justice Standards and Training Commission	12	16	28
Agency Total	12	16	28
Department of Management Services			
Department of Management Services	3	0	3
Division of State Group Insurance	4	6	10
Division of Retirement	5	4	9
Agency Total	12	10	22
Department of Education			
Department of Education	3	3	6
Division of Blind Services	1	1	2
Confidential Vocational Rehabilitation Cases	9	10	19
Education Practices Commission	51	47	98
Independent, Postsecondary, Vocational, Technical	2	0	2
Vocational Rehabilitation Services	3	1	4
Agency Total	69	62	131
Department of Lottery			
Department of Lottery	1	0	1
Agency Total	1	0	1
Department of State			
Division of Elections	0	1	1

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2011 - 2012

AGENCY	Jul-Dec	Jan-June	TOTAL
Agency Total	0	1	1
Department of Transportation			
Department of Transportation	4	8	12
Agency Total	4	8	12
Department of Business and Professional Regulation			
Department of Business and Professional Regulation	2	0	2
Board of Accountancy	1	0	1
Board of Architecture	5	2	7
Board of Auctioneers	0	3	3
Building Code Administrators and Inspectors	0	1	1
Regulatory Council of Community Assoc. of Managers	2	5	7
Construction Industry Licensing Board	18	6	24
Board of Cosmetology	1	0	1
Division of Alcoholic Beverages and Tobacco	12	17	29
Division of Real Estate	3	8	11
Electrical Contractors	2	2	4
Board of Employee Leasing	0	1	1
Florida Real Estate Appraisal Board	1	1	2
Florida Real Estate Commission	6	9	15
Division of Hotels and Restaurants	56	50	106
Division of Land Sales, Condominiums, and Mobile H	0	1	1
Non-licensed Respondent	5	8	13
Board of Pilot Commissioners	0	2	2
Division of Pari-Mutuel Wagering	1	2	3
Board of Professional Engineers	6	7	13
State Boxing Commission	1	1	2
Board of Talent Agencies	0	1	1
Board of Veterinary Medicine	3	3	6
Agency Total	125	130	255
Florida Housing Finance Corporation			
Florida Housing Finance Corporation	2	11	13
Agency Total	2	11	13
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	3	3	6
Agency Total	3	3	6
Agency for Health Care Administration			
Agency for Health Care Administration	28	16	44
Audit Quality Control Services	5	0	5
Office of Certificate of Need	7	7	14
Bureau of Health Facility Regulation	83	46	129
Medicaid Cost Reimbursement	8	4	12
Medicaid Program Integrity	46	62	108
Office of Licensure and Certification	10	18	28
Agency Total	187	153	340
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	15	9	24
Section 320.642	15	12	27
Agency Total	30	21	51

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2011 - 2012

AGENCY	Jul-Dec	Jan-June	TOTAL
Medical Arbitration			
Medical Arbitration	6	8	14
Agency Total	6	8	14
No Agency			
Construction Mining	1	1	2
Agency Total	1	1	2
Florida Birth-Related Neurological Injury Compensation			
Florida Birth-Related Neurological Injury Compensa	22	17	39
Agency Total	22	17	39
Office of Financial Regulation			
Office of Financial Regulation	10	10	20
Agency Total	10	10	20
Office of Insurance Regulation			
Office of Insurance Regulation	1	4	5
Agency Total	1	4	5
Public Service Commission			
Public Service Commission	0	1	1
Agency Total	0	1	1
Department of Revenue			
Department of Revenue	25	23	48
Child Support Enforcement Program	1,259	334	1,593
Agency Total	1,284	357	1,641
Self-contained Agencies			
Pinellas County Construction Licensing Board	0	1	1
Agency Total	0	1	1
Universities and Colleges			
Universities and Colleges	1	0	1
Edison State College	0	1	1
Florida A & M University	3	1	4
Florida Community College at Jacksonville	0	1	1
Manatee Jr. College	1	0	1
Agency Total	5	3	8
Water Management Districts			
Water Management Districts	0	1	1
South Florida Water Management District	6	3	9
St. Johns River Water Management District	3	2	5
Suwannee River Water Management District	0	4	4
Southwest Florida Water Management District	1	5	6
Agency Total	10	15	25
NON BAKER ACT TOTAL	2,350	1,349	3,699

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2011 - 2012

AGENCY	Jul-Dec	Jan-June	TOTAL
Baker Acts			
Department of Veterans Affairs	2	3	5
Florida State Hospital	176	187	363
Geo Group, Inc.	3	3	6
Lake Correctional Institution	11	12	23
Northeast Florida State Hospital	404	400	804
Peace River Center	7	8	15
Shands at Vista	3	2	5
South Florida State Hospital	206	239	445
West Florida Community Care Center	23	40	63
Baker Act Total	835	894	1,729

SUMMARY

Division of Administrative Hearings
Actual, Estimated, and Requested Expenditures

Adjudication of Disputes

<u>Appropriation Category</u>	Actual Expenditures <u>FY 2011-12</u>	Estimated Expenditures <u>FY 2012-13</u>	Requested Expenditures <u>FY 2013-14</u>
Salaries and Benefits	\$6,689,559	\$6,618,941	\$6,663,641
Other Personal Services	\$2,962	\$18,082	\$18,082
Expenses	\$1,073,696	\$1,025,647	\$1,025,647
Operating Capital Outlay	\$64,257	\$65,000	\$65,000
Special Categories			
Contracted Services	\$176,059	\$186,495	\$186,495
Risk Mgmt. Ins.	\$67,092	\$53,748	\$53,748
Lease/Purch/Equip	\$0	\$31,500	\$31,500
TR/DMS/HR SVCS	<u>\$21,652</u>	<u>\$21,920</u>	<u>\$21,920</u>
Total Program Budget	<u>\$8,095,277</u>	<u>\$8,021,333</u>	<u>\$8,066,033</u>
Total Program Positions	67	65	65

Workers' Compensation Appeals

<u>Appropriation Category</u>	Actual Expenditures <u>FY 2011-12</u>	Estimated Expenditures <u>FY 2012-13</u>	Requested Expenditures <u>FY 2013-14</u>
Salaries and Benefits	\$12,646,481	\$12,198,630	\$12,319,125
Other Personal Services	\$16,277	\$17,836	\$17,836
Expenses	\$2,898,342	\$2,735,743	\$2,735,743
Operating Capital Outlay	\$26,507	\$25,916	\$25,916
Special Categories			
Contracted Services	\$924,098	\$983,324	\$1,023,324
Contracted Legal Svcs.	\$2,182	\$1,279	\$1,279
Risk Mgmt. Ins.	\$85,363	\$76,896	\$76,896
Lease/Purchase/Equip	\$0	\$123,000	\$83,000
TR/DMS/HR SVCS	<u>\$63,079</u>	<u>\$63,861</u>	<u>\$63,861</u>
Total Program Budget	<u>\$16,662,329</u>	<u>\$16,226,485</u>	<u>\$16,346,980</u>
Total Program Positions	182	177	177

TOTAL DIVISION BUDGET	<u>\$24,757,606</u>	<u>\$24,247,818</u>	<u>\$24,413,013</u>
TOTAL DIVISION POSITIONS	249	242	242

2013 DOAH ANNUAL REPORT

#: 40

PERIOD: *July 1, 2012 - June 30, 2013*

DATE: January 27, 2014

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Robert S. Cohen, Chief Judge

PAGES: 25

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2013



STATE OF FLORIDA

DIVISION OF ADMINISTRATIVE HEARINGS



January 27, 2014

FORTIETH ANNUAL REPORT

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INTRODUCTION

This report is submitted to the Joint Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of section 120.65(8), Florida Statutes, which provides:

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.
- (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).

GENERAL

The Division of Administrative Hearings administers two programs. One, which is the subject of this report, is the Adjudication of Disputes program that operates pursuant to chapter 120, Florida Statutes. The other is the Workers' Compensation Appeals program, Office of the Judges of Compensation Claims (OJCC), which operates pursuant to chapter 440, Florida Statutes. Section 440.45(5), Florida Statutes, requires the OJCC to issue an annual report to the Governor, the House of Representatives, the Senate, The Florida Bar, and the statewide nominating commission. The OJCC annual report was submitted. Accordingly, the present report will focus primarily on the Adjudication of Disputes program. However, because the

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headquarters element of the Division must support both programs, this report necessarily must include some information addressing the OJCC.

UTILIZATION RATES

Appendix 1 breaks out by agency the utilization rates of Division resources and demonstrates, in descending order, that 12 agencies utilized 95 percent of the Division's docket: the Department of Management Services, the Department of Revenue, the Agency for Health Care Administration, the Department of Environmental Protection, the Department of Children and Families, the Department of Business and Professional Regulation, the Department of Financial Services, the Department of Education, the Department of Health, the Department of Law Enforcement, the Department of Highway Safety and Motor Vehicles, and the Agency for Persons with Disabilities. Additionally, entities such as water management districts, cities, counties, school districts, and other educational entities, are significant users of the Division's services and are reported separately since they are covered by contractual agreements.

During FY 2012-13, state agencies and other governmental entities referred 4,354 requests for assignment of an administrative law judge compared to 5,428 requests filed the previous year. Although there was a moderate decrease in the number of cases filed, most of the decrease occurred in 2012. The Division is currently experiencing an upward trend and anticipates the cases returning to a more normal volume by the end of the current fiscal year. This is explained in part by the implementation of a new system by the Department of Revenue, Child Support Enforcement, which is expected to generate more referrals. The Department of Revenue has indicated a slow increase since its new system has been implemented and has already begun to send more referrals for the current fiscal year. Requests for assignment of Administrative Law Judges from the following nine agencies constitute 20 percent of our fiscal

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year caseload: the Agency for Persons with Disabilities (137 cases, an increase of 315 percent over the 33 cases filed in FY 2011-12), the Florida Commission on Ethics (16 cases, an increase of 100 percent over the 8 cases filed in FY 2011-12), the Department of Economic Opportunity (6 cases, an increase of 200 percent over the 2 cases filed in FY 2011-12), the Department of Health (145 cases, an increase of 3 percent over the 141 cases filed in FY 2011-12), the Department of Financial Services (168 cases, an increase of 24 percent over the 135 cases filed in FY 2011-12), the Department of Law Enforcement (55 cases, an increase of 96 percent over the 28 cases filed in FY 2011-12), the Department of Transportation (21 cases, an increase of 75 percent over the 12 cases filed in FY 2011-12), Florida Fish and Wildlife Conservation Commission, (7 cases, an increase of 17 percent over the 6 cases filed in FY 2011-12), and the County School Boards (321 cases, an increase of 11 percent over the 290 cases filed in FY 2011-12).

UTILIZATION OF PERSONNEL

As of June 30, 2013, the Adjudication of Disputes program had 65 established positions consisting of the Director and Chief Judge, the Deputy Chief Judge, 31 Administrative Law Judges, six Administrative Secretaries, seven Administrative Assistants, one Budget Officer, one Executive Assistant, two Staff Assistants, one Administrative Services Director, one Personnel Officer, one Purchasing Agent, one Accountant, one Database Administrator, one Distributed Computer Systems Analyst, one Systems Programmer, one Clerk of the Division, two Commission Deputy Clerks, two Deputy Clerks, and two Senior Clerks. With one Administrative Secretary or Administrative Assistant assigned to three judges, this represents a highly efficient model for the adjudicatory process. Our judges utilize a minimum of administrative personnel to perform their assigned tasks.

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The Workers' Compensation Appeals program had 177 established positions consisting of one Deputy Chief Judge of Compensation Claims, 31 Judges of Compensation Claims, 28 State Mediators, 1 Executive Secretary (The field office Executive Secretaries were reclassified to Deputy Clerks.), 34 Deputy Clerks (This includes 30 in field offices and four in the central Clerk's Office.), one Office Operations Manager, 37 Commission Deputy Clerks (This includes 31 in the field offices and six in the central Clerk's Office. Former field office Deputy Clerks were reclassified to Commission Deputy Clerks.), six Administrative Assistants, 30 Administrative Secretaries, one Secretary Specialist, one Staff Assistant, one Senior Management Analyst, one Court Reporter, one Distributed Computer Systems Administrator, one Distributed Computer Systems Analyst, one Distributed Computer Systems Specialist, and one Senior Attorney. The Legislature, in 2013, made additional personnel cuts to the Division. As of July 1, 2013, the Workers' Compensation Appeals Program was reduced to 176 established positions. In an extremely high-volume area of the law and in recognition of the economic downturn, the program constantly seeks ways to combine staff positions and responsibilities in the interest of cost savings.

HEARING REQUESTS

During FY 2012-13, the Division processed 4,354 hearing requests compared to 5,428 cases filed the previous fiscal year. Of the total cases filed, 1,836 were Baker Act cases. The remaining 2,518 cases were primarily filed pursuant to sections 120.56, 120.569, and 120.57(1), Florida Statutes. Most notable were the referrals from the Agency for Persons with Disabilities, which increased its referrals by 315 percent with 137 cases filed this fiscal year compared to 33 cases previously reported. Other cases filed are itemized by agency in the attached Appendix 2.

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In FY 2012-13, each Administrative Law Judge conducted an average of 104 hearings and wrote an average of 26 Recommended or Final Orders of varying length and complexity. In addition, each Judge closed an average of 47 cases, which were settled or otherwise dismissed without a final hearing. The case closure data does not include Baker Act closures.

INFORMATION TECHNOLOGY

The Division maintains two mission-critical databases and applications: the DOAH Case Management System (CMS) and the OJCC Case Management System (JCCa). Associated applications include full-text retrieval and document indexing of orders issued by the Division's Administrative Law Judges and Judges of Compensation Claims. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include office automation (word processing and e-mail) and online legal research via LexisNexis and other Internet resources.

Infrastructure Upgrades

Servers in each of the OJCC district offices and PCs in six district offices were replaced due to hardware end-of-life. Domain-wide servers, including domain controllers, an e-mail server and production database servers, were also replaced. Additional network-attached storage was acquired to accommodate the current and future growth rate in the number of case-related documents and agency indexed documents.

Network and data security were enhanced. In order to comply with HIPAA requirements and also network security best practices, the Division acquired and implemented SSL (secure sockets layer) certificates for both websites.

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Electronic Filing

In January 2013, the Division deployed a new service to users of the OJCC electronic filing application (eJCC). When a registered user uploads a pleading to be filed in an OJCC case and selects this option, the Division electronically serves that pleading on the other parties to the case. For calendar year 2013, there were 495,784 documents uploaded via the eJCC filing portal; the Division then served those documents electronically (via e-mail) to 548,009 recipients. For the Adjudication of Disputes program (eALJ), 31,355 documents were electronically filed with the Division. Electronic service of e-filed documents through eALJ will be implemented in 2014.

Indexing

Under section 120.53(2)(a), Florida Statutes, all state agencies now have an option to electronically transmit their agency orders to the Division's website for indexing purposes. To date, the following agencies have taken advantage of this provision: Department of Agriculture and Consumer Services, Department of Children and Families, Department of Economic Opportunity, Department of Environmental Protection, Department of Education, Department of Business and Professional Regulation, Department of Highway Safety and Motor Vehicles, Department of Health, and the Office of the Governor. We expect additional agencies will enroll in this no cost program in the coming year.

OPERATING BUDGET

The Division is 100 percent trust funded. Appendix 3 summarizes the actual, estimated, and requested expenditures for the Division's programs for FY 2012-13, FY 2013-14, and FY 2014-15, respectively.

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For the Adjudication of Disputes program, each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours conducted by its judges for all agencies. Based on this data, the Division's budget is prorated among the state agencies utilizing its services, and the Legislature appropriates fund transfers to the Division from those agencies. Hence, the amount each agency transfers to the Division is based on the amount of time the judges spend in pre-hearing conferences, motion hearings, and final hearings for each agency in a given year. Beginning in FY 2003-04, data on cancelled and continued hearings were excluded from the report under the theory that the agencies should not be penalized for encouraging the resolution of disputes short of proceeding to hearing. In October 2013, the Division submitted its twenty-seventh "Hearing Hours Held" report (see Appendix 1). In FY 2012-13, 3,355.25 hearing hours were held. (Appendix 1 excludes Baker Act hearing hours, which totaled 239 in FY 2012-13.)

The Division is also authorized to enter into contracts with non-state entities such as cities, counties, regional planning councils, water management districts, school districts, and other educational entities for the provision of Administrative Law Judge services. The Division executed a contract with the Florida Legislature in late 2006 which had renewed each year (with the exception of this past year), and the Division's judges heard all Florida Senate claim bills that required a hearing before a Special Master. Contract organizations reimburse the Division for the costs of its services at a rate that is based on a total-cost-recovery methodology. The current contract rate is \$143 an hour, a most reasonable rate for adjudicatory services by experienced lawyer-judges.

The Division has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA's) recommendation to shift the burden of the cost of the

**DIVISION OF ADMINISTRATIVE HEARINGS
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Adjudication of Disputes program from state agencies to non-state entities. This has been accomplished by revising each year the hourly rate that is paid by the non-state entities for Administrative Law Judge services, by marketing the Division's services to attract new non-state entities, and by backing out these revenues before the budget is prorated among the state agencies. The assessment for administrative support that is paid by the Workers' Compensation Appeals program is also backed out before the budget is prorated. Hence, state agency transfers have been reduced by about \$1.1 million in the Division's FY 2014-15 Legislative Budget Request. In the coming year, the Director and other members of the Division's staff will continue their efforts to solicit new contractual business from local government entities to further offset the cost of supporting the Division that is borne by our state agencies.

The Workers' Compensation Appeals program is supported by cash transfers from the Workers' Compensation Administration Trust Fund that is administered by the Department of Financial Services. This trust fund is funded through a workers' compensation premium tax assessment which supports the entire workers' compensation program, not only the appeals program administered by the Division.

RECOMMENDATIONS CONCERNING THE A.P.A.

The Division closely follows judicial decisions concerning the application and interpretation of the Administrative Procedure Act (A.P.A.). The Division clearly recognizes that it must remain fair and impartial in all matters affecting the agencies and private parties that come before it for adjudication of their disputes. However, pursuant to its statutory mandate in section 120.65(8)(b), Florida Statutes, the Division is required to make recommendations for changes or improvements in the A.P.A. "or any agency's practice or policy with respect thereto." Further, section 120.65 was amended in 2006 to require the Division to include

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recommendations as to the types of cases that should be conducted under the summary hearing process described in section 120.574, Florida Statutes. § 120.65(8)(c), Fla. Stat. Finally, section 120.65 was amended to require the Division's report to include information regarding each agency's compliance with the filing requirement in section 120.57(1)(m), Florida Statutes.

This year, numerous bills have been filed in the Florida Legislature to make amendments to the A.P.A. Many of these amendments are designed to clean up or clarify the law as it currently exists through the rulemaking process and court decisions. Other changes appear to be more substantive in nature. As in the past, the Division will work with the Legislature and proponents or opponents of any proposed legislation affecting administrative practice to ensure that the goals of due process and an efficient adjudication of disputes is maintained. As of the date of this report, it remains too early in the process to comment on specific legislation, other than to say the undersigned and any other necessary staff of the Division will cooperate fully with Legislative and Executive branch requests regarding procedural and substantive changes to chapter 120 or any statutes related to the adjudication of disputes in the administrative forum. We shall testify before legislative committees, meet with members of the Legislature, or confer with stakeholders, as requested, to provide information and insights into how proposed changes might affect the Division and the cases we hear.

The Division, if asked, will continue to perform Special Master duties under contract with the Florida Senate, and, when these matters are referred to the Division, the Administrative Law Judges assigned to hear legislative claim bills will continue to be called upon to support their decisions before the appropriate Senate committees and, when requested, on the Senate floor. Many high profile claim bills have been heard by the Division's judges serving as Special

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Masters and positive feedback has been given to the Division by Senate leadership. The Division has taken on these new matters without the addition of new judges or support staff.

As noted above, the Division has experienced immense growth in the use of filing of pleadings, orders, and other documents by electronic means since mandatory electronic filing has become the law. Under this system, registered users of the electronic filing program realize the efficiencies and savings afforded by not using the mail, both regular and overnight, courier services to file papers with the Division, copying charges and materials, and staff time to carry out each of these functions. Since the system is now mandatory, not only has the Division saved costs, but the users of the system will realize great savings in time, effort, and the cost of materials and staff. Moreover, electronic filing has allowed all filed pleadings to be made available immediately on the Division's website for use by the public, thereby adding to the transparency of the work performed by the Division. As noted previously, the Workers' Compensation Appeals Program has already instituted e-service of all pleadings and papers filed, which has resulted in additional cost savings for those who conduct business with the Division. Such savings will be realized by those filing documents in the Adjudication of Disputes Program later this year when e-service is implemented in this program as well. Realizing that not everyone has access to a computer, the legislation carved out an exception to the requirement of electronic filing for those unable to gain reasonable access to a computer for filing documents. Many self-represented litigants have chosen to use the electronic filing system, even though not required to by law.

The summary hearing process set forth in section 120.574, Florida Statutes, has been selected by agencies and private parties only in rare instances since its enactment in 1998. In fact, to date, only three cases have been heard by the Division under this section. As we have

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done numerous times in the past, we will again note that if certain regulatory agencies, namely, those responsible for the prosecution of licensure disciplinary matters, such as the Department of Business and Professional Regulation and the Department of Health, were to refer their "misdemeanor" cases (those where the only penalty sought is an administrative fine) into the summary hearing process, the Division could assist with any backlog these agencies currently experience with respect to these cases. Also, if the minor infraction cases were referred to the Division for prompt adjudication, the regulatory agencies could concentrate their efforts (and precious meeting time for the volunteer members of the professional licensing boards) on the more serious matters which pose a threat to the health, safety, and welfare of the citizens of Florida. The Division could handle these additional summary matters with its current complement of judges and support staff.

In 2009, the Division was able for the first time to offer video-teleconferencing capabilities in each of its 17 district offices around the state, as well as in the central offices in Tallahassee. As the Division has absorbed annual budget cuts, this capability has resulted in significant savings in costs and time, since the judges assigned to cases outside of Tallahassee are able to conduct many hearings via video, allowing them to maximize their office time to more timely issue the highly detailed orders that are required in administrative hearings. The video-teleconferencing technology has developed to the point where many attorneys prefer its use to the live hearing since multiple sites may be linked for a single hearing, allowing, for example, the judge and agency representatives to be in Tallahassee, the party involved in the hearing to be in Ft. Lauderdale, and perhaps even a witness to appear in Orlando, rather than having everyone travel to one location. The Workers' Compensation Appeals program has further utilized video teleconferencing to allow judges in districts that have experienced a

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downturn in the number of cases filed to alleviate some of the backlog in those districts still experiencing high volume. The use of video teleconferencing saves the cost of these judges traveling across the state and still provides a high-quality means of hearing the cases in a timely fashion.

In addition to the use of video teleconferencing for hearings, video teleconferencing has become an invaluable training tool, allowing us to connect multiple cities to our trainers in Tallahassee, rather than sending people on the road to perform in-service training.

Pursuant to the requirement contained in section 120.65(8)(d), Florida Statutes, many agencies have improved the timeliness of filing their final orders with the Division. In this past fiscal year, 13 of the 20 reported agencies employing the services of the Division have completely or substantially complied with the 15-day filing requirement (Agency for Health Care Administration, Commissions, Department of Agriculture and Consumer Services, Department of Business and Professional Regulation, Department of Citrus, Department of Environmental Protection, Department of Financial Services, Department of Highway Safety and Motor Vehicles, Department of Management Services, Department of Revenue, Department of Transportation, State Board of Administration, and Water Management Districts). Overall, of the agency final orders filed with the Division between July 1, 2012, and June 30, 2013, 75 percent were filed within 15 days of entry by the agency. The Division once again intends to remind the agencies of the statutory requirement to timely file their final orders. Filing these final orders electronically makes the task a simple one for the agencies.

Finally, in 2008, the Legislature designated the Division as an alternative for agencies who seek help in indexing their final orders pursuant to section 120.53(1)(a)2.b., Florida Statutes. Agencies may now designate the Division to keep, in an electronic format, all of their

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final orders and make those orders available to the public in a searchable database. Nine agencies (Department of Agriculture and Consumer Services, Department of Children and Families, Department of Economic Opportunity, Department of Environmental Protection, Department of Education, Department of Business and Professional Regulation, Department of Highway Safety and Motor Vehicles, Department of Health, and the Executive Office of the Governor) have already taken advantage of this service, and several agencies are now in the process of electronically transmitting these orders to the Division, which will publish them on its website for public use. To handle the increased number of documents received electronically, as well as to have sufficient space available for agency indexing of final orders, the Division has upgraded its storage capabilities. As more agencies take advantage of this service, the day may again come when the Division may have to increase its data storage capabilities.

CONCLUSION

The Division continues to supply high-quality adjudication of disputes pursuant to chapter 120, the Administrative Procedure Act. The Division constantly seeks ways to make the process more affordable to state agencies and citizens, and continues to expand its base to counties, cities, and other users of its program in order to reduce the cost of providing services. In the coming year, the Division will continue to focus its efforts on improved technology in order to streamline the electronic filing of all matters before it, as well as to improve access to the public for research, order preparation, and archiving. Further, the Division is mindful of the cost of proceeding to hearing and seeks to minimize any potential delays in moving cases through the system. This ensures that individuals, small businesses, and major corporations reduce the cost, time, and opportunity lost through judicial delay. By helping matters move through the Division in an expeditious matter, the cost of litigation is reduced and the time lost in

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the pursuit of a remedy is reduced. Through the elimination of programs that are not cost-effective; the elimination of personnel no longer needed in the face of improved technology; through promoting alternative dispute resolution short of hearing; the encouragement toward agencies to take advantage of the summary hearing process; and the increase in the number of non-state agencies contracting for the Division's services, the Division contributes to the goal of efficient government. To conclude, our number one concern is to ensure that all who appear before the Division are afforded due process in a fair and impartial setting, before a judge who treats them with respect and has a thorough understanding of the law to be applied in the matter at hand. We shall accomplish this without sacrificing quality and fairness in the Adjudication of Disputes program, and shall accomplish our goals without requesting additional funding from the Legislature.

Respectfully submitted,



ROBERT S. COHEN
Director and Chief Judge

RSC/lds

6/30/2013							Appendix 1	
HEARING HOURS HELD REPORT								
FY 2012-2013								
For the Period 07/01/12 through 6/30/2013								
AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	PRORATED AMOUNT OF FY 2014-15 LBR		
AGR	1.00	1.00	18.25	20.25	0.87549%	\$63,485		
AHCA	6.50	9.50	236.50	252.50	10.91656%	\$791,604		
APD	2.00	2.75	31.25	36.00	1.55642%	\$112,862		
CIT	0.00	0.00	8.00	8.00	0.34587%	\$25,080		
COR	0.00	0.00	0.00	0.00	0.00000%	\$0		
DBPR	11.00	11.00	160.25	182.25	7.87938%	\$571,365		
DCF	3.25	0.75	186.50	190.50	8.23606%	\$597,230		
DEO	0.50	0.75	8.50	9.75	0.42153%	\$30,567		
DEP	2.75	1.75	227.00	231.50	10.00865%	\$725,767		
DFS	3.25	9.50	144.25	157.00	6.78772%	\$492,205		
DLA	0.00	0.00	0.00	0.00	0.00000%	\$0		
DLE	0.25	0.25	73.00	73.50	3.17769%	\$230,427		
DMA	0.00	0.00	0.00	0.00	0.00000%	\$0		
DMS	7.25	16.00	422.00	445.25	19.24989%	\$1,395,887		
DOE	3.00	2.50	141.00	146.50	6.33377%	\$459,287		
DOH	2.00	11.75	127.00	140.75	6.08517%	\$441,260		
DOS	0.25	0.00	2.00	2.25	0.09728%	\$7,054		
DOT	0.75	2.00	31.50	34.25	1.48076%	\$107,376		
ELDER	0.00	0.00	0.00	0.00	0.00000%	\$0		
ETH	0.00	0.25	15.00	15.25	0.65932%	\$47,810		
FEC	0.75	0.00	8.50	9.25	0.39991%	\$28,999		
FWCC	0.00	0.00	6.75	6.75	0.29183%	\$21,162		
GOV	0.00	0.00	0.00	0.00	0.00000%	\$0		
HSM	2.25	3.50	62.25	68.00	2.93990%	\$213,184		
JUV	0.00	0.00	0.00	0.00	0.00000%	\$0		
LOT	0.00	0.00	0.00	0.00	0.00000%	\$0		
PSC	0.00	0.00	0.00	0.00	0.00000%	\$0		
REV	0.00	1.50	282.00	283.50	12.25681%	\$888,791		
VET	0.00	0.00	0.00	0.00	0.00000%	\$0		
TOTAL:	46.75	74.75	2191.50	2313.00	100.00000%	\$7,251,402		

NOTE: Hearing hours held in contract cases (water management districts, regional planning councils, cities, counties, school district/educational entity cases, etc.), NICA cases, growth management, medical malpractice and other miscellaneous cases are reported separately.

*Prior to prorating among state agencies, DOAH's FY 2014-15 Legislative Budget Request totaling \$8,356,986 was adjusted to reflect estimated revenue of \$560,341 from contract entities, payment of \$612,135 from the Workers' Compensation Appeals Program for general management and administrative services costs, estimated revenue of \$15,832 from cases filed pursuant to Chapter 403, Florida Statutes, and the estimated nonoperating cost of \$82,724 for state agency video teleconferencing hearings.

6/30/2013

Appendix 1

HEARING HOURS HELD BY CONTRACT/EDUCATIONAL/OTHER AGENCIES

FY 2012-2013

For the Period 07/01/12 through 6/30/13

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF HOURS ALL AGENCIES
CONTRACT					
EPP	3.00	7.00	93.25	103.25	3.07727%
TL	0.00	0.50	6.00	6.50	0.19373%
GM	0.00	0.00	0.00	0.00	0.00000%
MA	2.00	1.25	62.50	65.75	2.84263%
NICA	1.50	0.00	14.00	15.50	0.46196%
OTHER	0.75	5.50	35.25	41.50	1.23687%
SENATE CLAIM	0.25	0.00	1.75	2.00	0.05961%
SCHBDS	0.00	0.00	0.00	0.00	0.00000%
	29.25	13.50	765.00	807.75	24.07421%
TOTAL:	36.75	27.75	977.75	1042.25	31.06326%

CONTRACT: Water Management Districts, Regional Planning Councils, Cities, Counties, etc., as specified in § 120.65(11), Fla. Stat.

EPP: Electrical Power Plant siting cases filed by DEP, pursuant to Ch. 403, Fla. Stat.

TL: Transmission line siting cases filed by DEP, pursuant to Ch. 403, Fla. Stat.

GM: Growth Management cases filed by individuals, pursuant to § 163.3184(5), Fla. Stat.

MA: Medical Arbitration

NICA: Florida Birth-Related Neurological Injury Compensation Association

OTHER: Noncontract entities such as Victims of Wrongful Incarceration Compensation Act

SENATE CLAIM BILLS: Excess judgment claims and equitable claims, pursuant to Senate Rules 4.81

SCHBDS: School boards and other educational entities specified in § 120.65(11), Fla. Stat.

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2012 - 2013

AGENCY	Jul-Dec	Jan-June	TOTAL
Authorities			
Tampa Port Authority	1	0	1
Agency Total	1	0	1
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	7	4	11
Bureau of License and Bond	3	0	3
Division of Consumer Services	1	0	1
Division of Licensing	0	1	1
Agency Total	11	5	16
Agency for Persons with Disabilities			
Agency for Persons with Disabilities	17	120	137
Agency Total	17	120	137
Department of Children and Family Services			
Department of Children and Family Services	1	1	2
Exemption Ch. 435, position of special trust	19	18	37
Family Safety and Preservation Programs	30	40	70
Office of Licensure and Certification	1	6	7
Non-Baker Act Total	51	65	116
Contract Hearings			
City of Cape Coral	1	1	2
City of Gainesville	3	1	4
Code Enforcement	0	1	1
City of Tallahassee	0	1	1
Emerald Coast Utilities Authority	1	0	1
Miami-Dade County	0	3	3
Monroe County	1	2	3
Pinellas County	2	5	7
Agency Total	8	14	22
Department of Citrus			
Department of Citrus	0	1	1
Agency Total	0	1	1
Commissions			
Florida Commission on Ethics	9	7	16
Florida Commission on Human Relations	71	73	144
FCHR, Fair Housing Act	15	4	19
Florida Elections Commission	1	0	1
Agency Total	96	84	180
Department of Corrections			
Department of Corrections	2	0	2
Agency Total	2	0	2
County School Boards			
Alachua County School Board	2	0	2
Baker County School Board	1	0	1
Bay County School Board	1	0	1
Bradford County School Board	0	2	2
Brevard County School Board	3	7	10

Division of Administrative Hearings

ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2012 - 2013

AGENCY	Jul-Dec	Jan-June	TOTAL
Broward County School Board	23	31	54
Charlotte County School Board	1	1	2
Citrus County School Board	0	1	1
Clay County School Board	1	0	1
Collier County School Board	0	4	4
Miami-Dade County School Board	23	36	59
DeSoto County School Board	1	0	1
Duval County School Board	6	9	15
Escambia County School Board	1	1	2
Flagler County School Board	1	2	3
Franklin County School Board	0	1	1
Gilchrist County School Board	1	0	1
Glades County School Board	1	0	1
Hendry County School Board	1	0	1
Hernando County School Board	2	1	3
Hillsborough County School Board	4	6	10
Indian River County School Board	1	1	2
Jackson County School Board	3	0	3
Lake County School Board	4	3	7
Lee County School Board	3	6	9
Leon County School Board	4	0	4
Levy County School Board	2	0	2
Manatee County School Board	2	1	3
Marion County School Board	2	0	2
Martin County School Board	0	1	1
Monroe County School Board	2	3	5
Nassau County School Board	1	0	1
Okeechobee County School Board	0	1	1
Orange County School Board	6	6	12
Palm Beach County School Board	11	16	27
Section 504 cases	4	3	7
Pasco County School Board	2	1	3
Pinellas County School Board	2	6	8
Polk County School Board	0	7	7
Putnam County School Board	1	0	1
St Johns County School Board	3	1	4
St Lucie County School Board	6	3	9
Sarasota County School Board	1	0	1
Seminole County School Board	12	5	17
Volusia County School Board	3	5	8
Charter Schools Non-renewal or Terminating	0	2	2
Agency Total	148	173	321
Department of Economic Opportunity			
Department of Economic Opportunity	3	3	6
Agency Total	3	3	6
Department of Environmental Protection			
Department of Environmental Protection	18	23	41
Agency Total	18	23	41
Department of Financial Services			
Department of Financial Services	1	0	1
Division of Insurance Agents and Agencies Services	12	8	20
Bureau of Unclaimed Property	1	1	2

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2012 - 2013

AGENCY	Jul-Dec	Jan-June	TOTAL
Division of State Fire Marshal	7	6	13
Division of Funeral, Cemetery, and Consumer Services	4	13	17
Division of Workers' Compensation	33	82	115
Agency Total	58	110	168
Department of Health			
Department of Health	4	5	9
Board of Clinical Social Work, Marriage and Family	1	0	1
Board of Dentistry	6	7	13
Environmental Health	3	3	6
Bureau of Emergency Medical Services	1	5	6
Division of Emergency Preparedness and Community Services	0	1	1
Board of Hearing Aid Specialists	0	1	1
Board of Medicine	47	15	62
Board of Massage Therapy	18	11	29
Board of Nursing	6	7	13
Board of Pharmacy	0	3	3
Board of Podiatric Medicine	1	0	1
Agency Total	87	58	145
Department of Juvenile Justice			
Department of Juvenile Justice	1	2	3
Agency Total	1	2	3
Department of Law Enforcement			
Department of Law Enforcement	2	1	3
Criminal Justice Standards and Training Commission	28	24	52
Agency Total	30	25	55
Department of Management Services			
Department of Management Services	1	3	4
Convicted Vendor List	1	0	1
Division of Administrative Hearings	1	0	1
Division of State Group Insurance	2	6	8
Division of Retirement	3	6	9
Agency Total	8	15	23
Department of Education			
Department of Education	2	4	6
Commission for Independent Education	0	1	1
Charter Schools Operation	0	2	2
Charter Schools Unlawful Reprisal	0	1	1
Confidential Vocational Rehabilitation Cases	11	6	17
Education Practices Commission	34	54	88
Vocational Rehabilitation Services	3	0	3
Agency Total	50	68	118
Department of Transportation			
Department of Transportation	9	12	21
Agency Total	9	12	21
Department of Business and Professional Regulation			
Department of Business and Professional Regulation	2	5	7
Board of Accountancy	2	2	4
Board of Architecture	3	4	7

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2012 - 2013

AGENCY	Jul-Dec	Jan-June	TOTAL
Board of Auctioneers	0	1	1
Barber`s Board	0	3	3
Building Code Administrators and Inspectors	0	1	1
Regulatory Council of Community Assoc. of Managers	2	0	2
Construction Industry Licensing Board	6	5	11
Board of Cosmetology	0	2	2
Division of Alcoholic Beverages and Tobacco	9	6	15
Division of Real Estate	2	5	7
Electrical Contractors	0	3	3
Florida Real Estate Appraisal Board	2	0	2
Florida Real Estate Commission	1	4	5
Division of Hotels and Restaurants	56	46	102
Division of Land Sales, Condominiums, and Mobile H	1	0	1
Non-licensed Respondent	3	4	7
Division of Pari-Mutuel Wagering	4	4	8
Board of Professional Engineers	4	3	7
Board of Talent Agencies	0	1	1
Board of Veterinary Medicine	1	2	3
Agency Total	98	101	199
Florida Housing Finance Corporation			
Florida Housing Finance Corporation	2	0	2
Agency Total	2	0	2
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	5	2	7
Agency Total	5	2	7
Growth Management (No Agency)			
Growth Management (No Agency)	3	2	5
Agency Total	3	2	5
Office of the Governor			
Florida Land and Water Adjudicatory Commission, Co	0	2	2
Agency Total	0	2	2
Agency for Health Care Administration			
Agency for Health Care Administration	22	70	92
Audit Quality Control Services	0	2	2
Office of Certificate of Need	6	16	22
Bureau of Health Facility Regulation	41	8	49
Medicaid Cost Reimbursement	4	5	9
Medicaid Program Integrity	63	55	118
Office of Licensure and Certification	5	9	14
Agency Total	141	165	306
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	15	19	34
Section 320.642	3	6	9
Agency Total	18	25	43
Medical Arbitration			
Medical Arbitration	8	3	11
Agency Total	8	3	11

Division of Administrative Hearings

ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2012 - 2013

AGENCY	Jul-Dec	Jan-June	TOTAL
Florida Birth-Related Neurological Injury Compensation			
Florida Birth-Related Neurological Injury Compensa	25	19	44
Agency Total	25	19	44
Office of Financial Regulation			
Office of Financial Regulation	3	5	8
Agency Total	3	5	8
Office of Insurance Regulation			
Office of Insurance Regulation	2	1	3
Agency Total	2	1	3
Original Sentencing Court			
Victims of Wrongful Incarceration Act	0	1	1
Agency Total	0	1	1
Department of Revenue			
Department of Revenue	20	28	48
Child Support Enforcement Program	82	361	443
Agency Total	102	389	491
State Board of Administration			
State Board of Administration	2	1	3
Agency Total	2	1	3
Self-contained Agencies			
Pinellas County Construction Licensing Board	0	1	1
Agency Total	0	1	1
Universities and Colleges			
Florida A & M University	0	1	1
Agency Total	0	1	1
Water Management Districts			
Northwest Florida Water Management District	1	0	1
South Florida Water Management District	3	4	7
St. Johns River Water Management District	1	3	4
Suwannee River Water Management District	1	0	1
Southwest Florida Water Management District	2	0	2
Agency Total	8	7	15
NON BAKER ACT TOTAL	1,015	1,503	2,518

Division of Administrative Hearings

ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2012 - 2013

AGENCY	Jul-Dec	Jan-June	TOTAL
Baker Acts			
Department of Veterans Affairs	3	3	6
Florida State Hospital	196	219	415
Geo Group, Inc.	0	4	4
Lake Correctional Institution	6	7	13
New Horizons of the Treasure Coast, Inc.	1	0	1
Northeast Florida State Hospital	416	425	841
Peace River Center	2	9	11
Personal Enrichment Mental Health Services	1	0	1
Shands at the University of Florida	1	0	1
Shands at Vista	1	2	3
South Florida State Hospital	276	237	513
West Florida Community Care Center	17	10	27
Baker Act Total	920	916	1,836

SUMMARY
Division of Administrative Hearings
Actual, Estimated and Requested Expenditures

Adjudication of Disputes

<u>Appropriation Category</u>	Actual Expenditures <u>FY 2012-13</u>	Estimated Expenditures <u>FY 2013-14</u>	Requested Expenditures <u>FY 2014-15</u>
Salaries and Benefits	\$6,670,702	\$6,896,944	\$6,966,058
Other Personal Services	\$0	\$18,082	\$18,082
Expenses	\$924,925	\$1,025,647	\$1,025,647
Operating Capital Outlay	\$64,954	\$65,000	\$65,000
Special Categories			
Contracted Services	\$183,660	\$186,495	\$185,495
Contracted Legal Svcs.	\$0	\$0	\$1,000
Risk Mgmt. Ins.	\$53,748	\$43,522	\$43,522
Lease/Purch/Equip	\$25,667	\$31,500	\$31,500
TR/DMS/HR SVCS	<u>\$21,920</u>	<u>\$20,682</u>	<u>\$20,682</u>
Total Program Budget	<u>\$7,945,576</u>	<u>\$8,287,872</u>	<u>\$8,356,986</u>
Total Program Positions	65	65	65

Workers' Compensation Appeals

<u>Appropriation Category</u>	Actual Expenditures <u>FY 2012-13</u>	Estimated Expenditures <u>FY 2013-14</u>	Requested Expenditures <u>FY 2014-15</u>
Salaries and Benefits	\$12,004,552	\$13,071,418	\$13,267,738
Other Personal Services	\$17,367	\$17,836	\$17,836
Expenses	\$2,695,034	\$2,735,743	\$2,735,743
Operating Capital Outlay	\$150,344	\$25,916	\$25,916
Special Categories			
Contracted Services	\$990,528	\$1,023,324	\$1,023,324
Contracted Legal Svcs.	\$8,414	\$1,279	\$1,279
Tenant Broker Commissions	\$102,623	\$0	\$0
Risk Mgmt. Ins.	\$76,896	\$67,515	\$67,515
Lease/Purchase/Equip	\$32,522	\$83,000	\$83,000
TR/DMS/HR SVCS	<u>\$63,860</u>	<u>\$60,254</u>	<u>\$60,254</u>
Total Program Budget	<u>\$16,142,140</u>	<u>\$17,086,285</u>	<u>\$17,282,605</u>
Total Program Positions	177	176	176

TOTAL DIVISION BUDGET	<u>\$24,087,716</u>	<u>\$25,374,157</u>	<u>\$25,639,591</u>
TOTAL DIVISION POSITIONS	242	241	241

2014 DOAH ANNUAL REPORT

#: 41

PERIOD: *July 1, 2013 - June 30, 2014*

DATE: January 28, 2015

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Robert S. Cohen, Chief Judge

PAGES: 24

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2014



STATE OF FLORIDA

DIVISION OF ADMINISTRATIVE HEARINGS



January 28, 2015

FORTY-FIRST ANNUAL REPORT

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**DIVISION OF ADMINISTRATIVE HEARINGS
FORTY-FIRST ANNUAL REPORT**

INTRODUCTION

This report is submitted to the Joint Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of section 120.65(8), Florida Statutes, which provides:

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.
- (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).

GENERAL

The Division of Administrative Hearings administers two programs. One, which is the subject of this report, is the Adjudication of Disputes program that operates pursuant to chapter 120, Florida Statutes. The other is the Workers' Compensation Appeals program, Office of the Judges of Compensation Claims (OJCC), which operates pursuant to chapter 440, Florida Statutes. Section 440.45(5), Florida Statutes, requires the OJCC to issue an annual report to the Governor, the House of Representatives, the Senate, The Florida Bar, and the statewide nominating commission. The OJCC annual report was submitted. Accordingly, the present report will focus primarily on the Adjudication of Disputes program. However, because the

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headquarters element of the Division must support both programs, this report necessarily must include some information addressing the OJCC.

We are proud to report some of the Clerk's Office accomplishments for 2014. While many of these were initiated during fiscal year 2013-2014, some were not actually implemented until after the beginning of the 2014-2015 fiscal year. However, they still bear noting for their savings and efficiencies. The Clerk's Office personnel have been fully cross-trained which results in little or no delays in service or downtime if a staff member is away on leave. Work station manuals have been created to answer most questions arising when a staff member fills in for another who is away. This has resulted in far less use of temporary services when an employee is on annual or medical leave, and it increases the value of all additionally-trained staff, who learn new skills and support their co-workers.

As discussed more fully below, in August 2014, the Clerk's Office successfully launched eService of new rule challenge requests to agency heads, the Department of State, and JAPC. Public records requests are being handled by Clerk's Office personnel, which has resulted in savings to the Division and to the public making requests through electronic transmittal of most of the documents requested. In December 2014, eService of all documents filed with the Division was successfully launched. This is expected to result in significant savings for all who use the Division to adjudicate their disputes. By next year's report, an analysis of the savings realized will be available.

UTILIZATION RATES

Appendix 1 breaks out by agency the utilization rates of Division resources and demonstrates, in descending order, that 12 agencies utilized 94 percent of the Division's docket: the Department of Revenue, the Agency for Health Care Administration, the Department of

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Management Services, the Department of Health, the Department of Financial Services, the Department of Children and Families, the Department of Environmental Protection, the Department of Education, the Department of Business and Professional Regulation, the Department of Highway Safety and Motor Vehicles, the Agency for Persons with Disabilities, and the Department of Law Enforcement. Additionally, entities such as water management districts, cities, counties, school districts, and other educational entities, are significant users of the Division's services and are reported separately since they are covered by contractual agreements.

During FY 2013-14, state agencies and other governmental entities referred 5,600 requests for assignment of an administrative law judge compared to 4,354 requests filed the previous year. The Division is currently experiencing an upward trend and anticipates the cases returning to a more normal volume by the end of the current fiscal year. This is explained in part by the implementation of a new system by the Department of Revenue, Child Support Enforcement, which is already generating more referrals. Requests for assignment of Administrative Law Judges from the following six agencies constitute 34 percent of our fiscal year caseload: the Department of Corrections (12 cases, an increase of 500 percent over the 2 cases filed in FY 2012-13), the Department of Juvenile Justice (17 cases, an increase of 467 percent over the 3 cases filed in FY 2012-13), the Department of Education (131 cases, an increase of 11 percent over the 118 cases filed in FY 2012-13), the Florida Housing Finance Corporation (20 cases, an increase of 900 percent over the 2 cases filed in FY 2012-13), the Office of Financial Regulation (18 cases, an increase of 125 percent over the 8 cases filed in FY 2012-13), and the Department Revenue (1,716 cases, an increase of 249 percent over the 491 cases filed in FY 2012-13).

D I V I S I O N O F A D M I N I S T R A T I V E H E A R I N G S
F O R T Y - F I R S T A N N U A L R E P O R T

UTILIZATION OF PERSONNEL

As of June 30, 2014, the Adjudication of Disputes program had 65 established positions consisting of the Director and Chief Judge, the Deputy Chief Judge, 31 Administrative Law Judges, seven Administrative Secretaries, seven Administrative Assistants, one Budget Officer, one Executive Assistant, two Staff Assistants, one Administrative Services Director, one Personnel Officer, one Purchasing Agent, one Accountant, one Database Administrator, one Distributed Computer Systems Analyst, one Systems Programmer, one Clerk of the Division, two Commission Deputy Clerks, two Deputy Clerks, and two Senior Clerks. With one Administrative Secretary or Administrative Assistant assigned to three judges, this represents a highly efficient model for the adjudicatory process. Our judges utilize a minimum of administrative personnel to perform their assigned tasks.

The Workers' Compensation Appeals program had 176 established positions consisting of one Deputy Chief Judge of Compensation Claims, 31 Judges of Compensation Claims, 28 State Mediators, one Executive Secretary, 35 Deputy Clerks (includes 31 in the field offices and four in the central Clerk's Office), one Office Operations Manager, 37 Commission Deputy Clerks (includes 31 in the field offices and six in the central Clerk's Office), five Administrative Assistants, 29 Administrative Secretaries, one Secretary Specialist, one Staff Assistant, one Accountant, one Court Reporter, one Distributed Computer Systems Administrator, one Distributed Computer Systems Analyst, one Distributed Computer Systems Specialist, and one Attorney. In an extremely high-volume area of the law and in recognition of the economic downturn, the program constantly seeks ways to combine staff positions and responsibilities in the interest of cost savings.

D I V I S I O N O F A D M I N I S T R A T I V E H E A R I N G S
F O R T Y - F I R S T A N N U A L R E P O R T

HEARING REQUESTS

During FY 2013-14, the Division processed 5,600 hearing requests compared to 4,354 cases filed the previous fiscal year. Of the total cases filed, 1,988 were Baker Act cases. The remaining 3,612 cases were primarily filed pursuant to sections 120.56, 120.569, and 120.57(1), Florida Statutes. Most notable were the referrals from the Florida Housing Finance Corporation, which increased its referrals by 900 percent with 20 cases filed this fiscal year compared to 2 cases previously reported. Other cases filed are itemized by agency in the attached Appendix 2.

In FY 2013-14, each Administrative Law Judge conducted an average of 144 hearings and wrote an average of 50 Recommended or Final Orders of varying length and complexity. In addition, each Judge closed an average of 56 cases, which were settled or otherwise dismissed without a final hearing. The case closure data does not include Baker Act closures.

INFORMATION TECHNOLOGY

The Division maintains two mission-critical databases and applications: the DOAH Case Management System (CMS) and the OJCC Case Management System (JCCa). Associated applications include full-text retrieval and document indexing of orders issued by the Division's Administrative Law Judges and Judges of Compensation Claims. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include office automation (word processing and e-mail) and online legal research via LexisNexis and other Internet resources.

Infrastructure Upgrades

In order to facilitate the Division's response to public records requests for emails, an improved enterprise email archiving solution was implemented in August 2014. This solution,

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based on Microsoft Exchange 2010 technology, features journaling, archiving, and long-term retention of all Division emails.

Electronic Filing

Electronic service of incoming pleadings to registered parties was implemented for the Adjudication of Disputes (eALJ) cases in December 2014. For calendar year 2014, there were 34,494 documents uploaded via the eALJ filing portal; 47,052 documents were served (via email) to parties of record. For the OJCC, 540,719 documents were uploaded via the eJCC filing portal; 1,362,358 documents were electronically served.

Indexing

Under section 120.53(2)(a), Florida Statutes, all state agencies now have an option to electronically transmit their agency orders to the Division's website for indexing purposes. To date, the following agencies have taken advantage of this provision: Department of Agriculture and Consumer Services, Department of Children and Families, Department of Economic Opportunity, Department of Environmental Protection, Department of Education, Department of Business and Professional Regulation, Department of Highway Safety and Motor Vehicles, Department of Health, and the Office of the Governor. We expect additional agencies will enroll in this no cost program in the coming year.

OPERATING BUDGET

The Division is 100 percent trust funded. Appendix 3 summarizes the actual, estimated, and requested expenditures for the Division's programs for FY 2013-14, FY 2014-15, and FY 2015-16, respectively.

For the Adjudication of Disputes program, each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours conducted by its judges

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for all agencies. Based on this data, the Division's budget is prorated among the state agencies utilizing its services, and the Legislature appropriates fund transfers to the Division from those agencies. Hence, the amount each agency transfers to the Division is based on the amount of time the judges spend in pre-hearing conferences, motion hearings, and final hearings for each agency in a given year. Beginning in FY 2003-04, data on cancelled and continued hearings were excluded from the report under the theory that the agencies should not be penalized for encouraging the resolution of disputes short of proceeding to hearing. In October 2014, the Division submitted its twenty-eighth "Hearing Hours Held" report (see Appendix 1). In FY 2013-14, a total of 3,805 hearing hours were held. (Appendix 1 excludes Baker Act hearing hours, which totaled 248 in FY 2013-14.)

The Division is also authorized to enter into contracts with non-state entities such as cities, counties, regional planning councils, water management districts, school districts, and other educational entities for the provision of Administrative Law Judge services. When needed, the Division also enters into a contract with the Florida Legislature to hear all Florida Senate claim bills that required a hearing before a Special Master. Contract organizations reimburse the Division for the costs of its services at a rate that is based on a total-cost-recovery methodology. The current contract rate is \$148 an hour, a most reasonable rate for adjudicatory services by experienced lawyer-judges.

The Division has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA's) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to non-state entities. This has been accomplished by revising each year the hourly rate that is paid by the non-state entities for Administrative Law Judge services, by marketing the Division's services to attract new non-state

**DIVISION OF ADMINISTRATIVE HEARINGS
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entities, and by backing out these revenues before the budget is prorated among the state agencies. The assessment for administrative support that is paid by the Workers' Compensation Appeals program is also backed out before the budget is prorated. Hence, state agency transfers have been reduced by about \$1.1 million in the Division's FY 2015-16 Legislative Budget Request. In the coming year, the Director and other members of the Division's staff will continue their efforts to solicit new contractual business from local government entities to further offset the cost of supporting the Division that is borne by our state agencies.

The Workers' Compensation Appeals program is supported by cash transfers from the Workers' Compensation Administration Trust Fund that is administered by the Department of Financial Services. This trust fund is funded through a workers' compensation premium tax assessment which supports the entire workers' compensation program, not only the appeals program administered by the Division.

RECOMMENDATIONS CONCERNING THE A.P.A.

The Division closely follows judicial decisions concerning the application and interpretation of the Administrative Procedure Act (A.P.A.). The Division clearly recognizes that it must remain fair and impartial in all matters affecting the agencies and private parties that come before it for adjudication of their disputes. However, pursuant to its statutory mandate in section 120.65(8)(b), Florida Statutes, the Division is required to make recommendations for changes or improvements in the A.P.A. "or any agency's practice or policy with respect thereto." Further, section 120.65 was amended in 2006 to require the Division to include recommendations as to the types of cases that should be conducted under the summary hearing process described in section 120.574, Florida Statutes. § 120.65(8)(c), Fla. Stat. Finally, section

**DIVISION OF ADMINISTRATIVE HEARINGS
FORTY - FIRST ANNUAL REPORT**

120.65 was amended to require the Division's report to include information regarding each agency's compliance with the filing requirement in section 120.57(1)(m), Florida Statutes.

At the time of the issuance of this report, one extensive bill has been filed with the Florida Legislature to make amendments to the A.P.A. HB 435 amends sections 57.111, 120.54, 120.55, 120.56, 120.565, 120.569, 120.57, 120.573, 120.595, 120.68, and 120.695, Florida Statutes, concerning numerous procedural and substantive issues in DOAH proceedings. As in the past, the Division will work with the Legislature and proponents or opponents of any proposed legislation affecting administrative practice to ensure that the goals of due process and an efficient adjudication of disputes is maintained. Also, the Administrative Law Section of the Florida Bar intends to propose legislation that will make the filing of final orders by state agencies for indexing and retrieval purposes with DOAH mandatory. This will result in one central location, DOAH, for all agency final orders. The Division already has advanced search capabilities for the indexed orders which allow agency personnel and the general public full access to all final orders that are not protected statutorily as confidential. This service will be provided by DOAH at no additional cost to the agencies or the general public. The undersigned and any other necessary staff of the Division will cooperate fully with Legislative and Executive branch requests regarding these, or any other proposed procedural and substantive changes to chapter 120 or any statutes related to the adjudication of disputes in the administrative forum. We shall testify before legislative committees, meet with members of the Legislature, or confer with stakeholders, as requested, to provide information and insights into how proposed changes might affect the Division and the cases we hear.

The Division, if asked, will continue to perform Special Master duties under contract with the Florida Senate, and, when these matters are referred to the Division, the Administrative

**DIVISION OF ADMINISTRATIVE HEARINGS
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Law Judges assigned to hear legislative claim bills will continue to be called upon to support their decisions before the appropriate Senate committees and, when requested, on the Senate floor. Many high profile claim bills have been heard by the Division's judges serving as Special Masters and positive feedback has been given to the Division by Senate leadership. The Division has taken on these new matters without the addition of new judges or support staff.

As noted above, the Division has experienced immense growth in the use of filing of pleadings, orders, and other documents by electronic means since mandatory electronic filing has become the law. Under this system, registered users of the electronic filing program realize the efficiencies and savings afforded by not using the mail, both regular and overnight, courier services to file papers with the Division, copying charges and materials, and staff time to carry out each of these functions. Since the system is mandatory, not only has the Division saved costs, but the users of the system have realized great savings in time, effort, and the cost of materials and staff. Moreover, electronic filing has allowed all filed pleadings to be made available immediately on the Division's website for use by the public, thereby adding to the transparency of the work performed by the Division. As noted previously, the Workers' Compensation Appeals Program has already instituted e-service of all pleadings and papers filed, which has resulted in additional cost savings for those who conduct business with the Division. Such savings will be realized by those filing documents in the Adjudication of Disputes Program later this year when e-service is implemented in this program as well. Realizing that not everyone has access to a computer, the legislation carved out an exception to the requirement of electronic filing for those unable to gain reasonable access to a computer for filing documents. Many self-represented litigants have chosen to use the electronic filing system, even though not required to by law.

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The summary hearing process set forth in section 120.574, Florida Statutes, has been selected by agencies and private parties only in rare instances since its enactment in 1998. In fact, to date, only three cases have been heard by the Division under this section. As we have done numerous times in the past, we will again note that if certain regulatory agencies, namely, those responsible for the prosecution of licensure disciplinary matters, such as the Department of Business and Professional Regulation and the Department of Health, were to refer their "misdemeanor" cases (those where the only penalty sought is an administrative fine) into the summary hearing process, the Division could assist with any backlog these agencies currently experience with respect to these cases. Also, if the minor infraction cases were referred to the Division for prompt adjudication, the regulatory agencies could concentrate their efforts (and precious meeting time for the volunteer members of the professional licensing boards) on the more serious matters which pose a threat to the health, safety, and welfare of the citizens of Florida. The Division could handle these additional summary matters with its current complement of judges and support staff.

Since 2009, the Division has offered video-teleconferencing capabilities in each of its 17 district offices around the state, as well as in the central offices in Tallahassee. As the Division has absorbed annual budget cuts, this capability has resulted in significant savings in costs and time, since the judges assigned to cases outside of Tallahassee are able to conduct many hearings via video, allowing them to maximize their office time to more timely issue the highly detailed orders that are required in administrative hearings. The video-teleconferencing technology has developed to the point where many attorneys prefer its use to the live hearing since multiple sites may be linked for a single hearing, allowing, for example, the judge and agency representatives to be in Tallahassee, the party involved in the hearing to be in

**DIVISION OF ADMINISTRATIVE HEARINGS
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Ft. Lauderdale, and perhaps even a witness to appear in Orlando, rather than having everyone travel to one location. The Workers' Compensation Appeals program has further utilized video teleconferencing to allow judges in districts that have experienced a downturn in the number of cases filed to alleviate some of the backlog in those districts still experiencing high volume. The use of video teleconferencing saves the cost of these judges traveling across the state and still provides a high-quality means of hearing the cases in a timely fashion. In addition to the use of video teleconferencing for hearings, video teleconferencing has become an invaluable training tool, allowing us to connect multiple cities to our trainers in Tallahassee, rather than sending people on the road to perform in-service training.

Pursuant to the requirement contained in section 120.65(8)(d), Florida Statutes, many agencies have improved the timeliness of filing their final orders with the Division. In this past fiscal year, 10 of the 21 reported agencies employing the services of the Division have completely or substantially complied with the 15-day filing requirement (Agency for Health Care Administration, Agency for Persons with Disabilities, Department of Business and Professional Regulation, Department of Highway Safety and Motor Vehicles, Department of Legal Affairs, Department of Revenue, Department of State, Office of Insurance Regulation, University and Colleges, and Water Management Districts). Overall, of the agency final orders filed with the Division between July 1, 2013, and June 30, 2014, 31 percent were filed within 15 days of entry by the agency. The Division once again intends to remind the agencies of the statutory requirement to timely file their final orders. Filing these final orders electronically makes the task a simple one for the agencies.

Finally, in 2008, the Legislature designated the Division as an alternative for agencies who seek help in indexing their final orders pursuant to section 120.53(1)(a)2.b., Florida

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Statutes. Agencies may now designate the Division to keep, in an electronic format, all of their final orders and make those orders available to the public in a searchable database. Nine agencies (Department of Agriculture and Consumer Services, Department of Children and Families, Department of Economic Opportunity, Department of Environmental Protection, Department of Education, Department of Business and Professional Regulation, Department of Highway Safety and Motor Vehicles, Department of Health, and the Executive Office of the Governor) have already taken advantage of this service, and several agencies are now in the process of electronically transmitting these orders to the Division, which will publish them on its website for public use. If the Administrative Law Section is successful in having legislation passed to require all agencies to file their final orders with the Division for indexing and retrieval, this number of participants will dramatically increase. To handle the increased number of documents received electronically, as well as to have sufficient space available for agency indexing of final orders, the Division has upgraded its storage capabilities. As more agencies take advantage of this service, the day may again come when the Division may have to increase its data storage capabilities.

CONCLUSION

The Division continues to supply high-quality adjudication of disputes pursuant to chapter 120, the Administrative Procedure Act. The Division constantly seeks ways to make the process more affordable to state agencies and citizens, and continues to expand its base to counties, cities, and other users of its program in order to reduce the cost of providing services. In the coming year, the Division will continue to focus its efforts on improved technology in order to streamline the electronic filing of all matters before it, as well as to improve access to the public for research, order preparation, and archiving. Further, the Division is mindful of the

DIVISION OF ADMINISTRATIVE HEARINGS
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cost of proceeding to hearing and seeks to minimize any potential delays in moving cases through the system. This ensures that individuals, small businesses, and major corporations reduce the cost, time, and opportunity lost through judicial delay. By helping matters move through the Division in an expeditious matter, the cost of litigation is reduced and the time lost in the pursuit of a remedy is reduced. Through the elimination of programs that are not cost-effective; the elimination of personnel no longer needed in the face of improved technology; through promoting alternative dispute resolution short of hearing; the encouragement toward agencies to take advantage of the summary hearing process; and the increase in the number of non-state agencies contracting for the Division's services, the Division contributes to the goal of efficient government. To conclude, our number one concern is to ensure that all who appear before the Division are afforded due process in a fair and impartial setting, before a judge who treats them with respect and has a thorough understanding of the law to be applied in the matter at hand. We shall accomplish this without sacrificing quality and fairness in the Adjudication of Disputes program, and shall accomplish our goals without requesting additional funding from the Legislature, except in extraordinary circumstances.

Respectfully submitted,



ROBERT S. COHEN
Director and Chief Judge

RSC/lds

6/30/2014

Appendix 1

HEARING HOURS HELD REPORT FY 2013-2014

For the Period 07/01/13 through 6/30/2014

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	PRORATED AMOUNT OF FY 2015-16 LBR
AGR	2.00	0.75	5.00	7.75	0.28427%	\$20,707
AHCA	10.25	19.25	309.00	338.50	12.41632%	\$904,444
APD	1.50	0.25	54.25	56.00	2.05410%	\$149,627
CIT	0.00	0.00	0.00	0.00	0.00000%	\$0
COR	0.75	2.00	32.00	34.75	1.27464%	\$92,849
DBPR	3.50	1.75	82.50	87.75	3.21871%	\$234,461
DCF	2.50	4.00	142.00	148.50	5.44704%	\$396,780
DEO	1.50	2.00	24.25	27.75	1.01788%	\$74,146
DEP	7.50	13.50	126.50	147.50	5.41036%	\$394,108
DFS	4.75	12.00	155.25	172.00	6.30903%	\$459,570
DLA	0.00	0.00	0.00	0.00	0.00000%	\$0
DLE	0.00	0.00	55.00	55.00	2.01742%	\$146,955
DMA	0.00	0.00	0.00	0.00	0.00000%	\$0
DMS	6.00	9.00	213.25	228.25	8.37231%	\$609,865
DOE	1.75	4.75	121.00	127.50	4.67675%	\$340,669
DOH	6.25	10.50	168.25	185.00	6.78588%	\$494,305
DOS	0.00	0.00	0.00	0.00	0.00000%	\$0
DOT	1.25	1.75	42.00	45.00	1.65062%	\$120,236
ELDER	0.00	0.00	0.00	0.00	0.00000%	\$0
ETH	0.75	0.75	14.50	16.00	0.58689%	\$42,751
FEC	0.00	0.50	12.75	13.25	0.48602%	\$35,403
FWCC	0.75	0.75	10.75	12.25	0.44934%	\$32,731
GOV	0.00	0.00	1.00	1.00	0.03668%	\$2,672
HSM	1.25	6.25	60.50	68.00	2.49427%	\$181,690
JUV	2.50	0.75	0.00	3.25	0.11921%	\$8,684
LOT	0.00	0.00	0.00	0.00	0.00000%	\$0
PSC	0.00	0.00	0.00	0.00	0.00000%	\$0
REV	2.00	2.00	947.25	951.25	34.89225%	\$2,541,662
VET	0.00	0.00	0.00	0.00	0.00000%	\$0
TOTAL:	56.75	92.50	2577.00	2726.25	100.00000%	\$7,284,315

NOTE: Hearing hours held in contract cases (water management districts, regional planning councils, cities, counties, school district/educational entity cases, etc.), NICA cases, growth management, medical malpractice and other miscellaneous cases are reported separately.

*Prior to prorating among state agencies, DOAH's FY 2015-16 Legislative Budget Request totaling \$8,380,172 was adjusted to reflect estimated revenue of \$561,524 from contract entities, payment of \$608,062 from the Workers' Compensation Appeals Program for general management and administrative services costs, estimated revenue of \$15,832 from cases filed pursuant to Chapter 403, Florida Statutes, and the estimated nonoperating cost of \$89,561 for state agency video teleconferencing hearings.

6/30/2014

Appendix 1

HEARING HOURS HELD BY CONTRACT/EDUCATIONAL/OTHER AGENCIES

FY 2013-2014

For the Period 07/01/13 through 6/30/14

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF HOURS ALL AGENCIES
CONTRACT					
EPP	5.50	4.00	168.75	178.25	4.68463%
TL	0.00	0.00	250.00	250.00	6.57030%
GM	0.00	0.00	0.00	0.00	0.00000%
MA	0.25	1.25	33.50	35.00	1.28381%
NICA	0.00	0.25	8.50	8.75	0.22996%
OTHER	2.25	9.50	13.00	24.75	0.65046%
SENATE CLAIM	1.00	0.75	13.25	15.00	0.39422%
SCHBDS	0.00	0.00	0.00	0.00	0.00000%
	21.50	14.50	531.00	567.00	14.90145%
TOTAL:	30.50	30.25	1018.00	1078.75	28.35085%

CONTRACT: Water Management Districts, Regional Planning Councils, Cities, Counties, etc., as specified in § 120.65(9), Fla. Stat.

EPP: Electrical Power Plant siting cases filed by DEP, pursuant to Ch. 403, Fla. Stat.

TL: Transmission line siting cases filed by DEP, pursuant to Ch. 403, Fla. Stat.

GM: Growth Management cases filed by individuals, pursuant to § 163.3184(5), Fla. Stat.

MA: Medical Arbitration

NICA: Florida Birth-Related Neurological Injury Compensation Association

OTHER: Noncontract entities such as Victims of Wrongful Incarceration Compensation Act

SENATE CLAIM BILLS: Excess judgment claims and equitable claims, pursuant to Senate Rules 4.81

SCHBDS: School boards and other educational entities specified in § 120.65(9), Fla. Stat.

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2013 - 2014

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	3	3	6
Bureau of License and Bond	1	0	1
Office of Citrus License and Bond	0	2	2
Bureau of Entomology and Pest Control	1	0	1
Division of Licensing	6	2	8
Agency Total	11	7	18
Agency for Persons with Disabilities			
Agency for Persons with Disabilities	124	15	139
License	3	2	5
Agency Total	127	17	144
Department of Children and Family Services			
Department of Children and Family Services	9	2	11
Exemption Ch. 435, position of special trust	17	12	29
Family Safety and Preservation Programs	30	41	71
Office of Licensure and Certification	0	4	4
Non-Baker Act Total	56	59	115
Contract Hearings			
Contract Hearings	0	1	1
City of Clearwater	1	0	1
City of Gainesville	0	1	1
Code Enforcement	1	2	3
City of Longwood Police Officers' and Firefighters	0	1	1
City of Tallahassee	1	0	1
Emerald Coast Utilities Authority	0	2	2
Leon County	0	1	1
Monroe County	1	0	1
Pinellas County	3	1	4
Tampa Bay Water, a Regional Water Supply Authority	0	1	1
Agency Total	7	10	17
Commissions			
Florida Commission on Ethics	3	7	10
Florida Commission on Human Relations	44	73	117
FCHR, Fair Housing Act	12	10	22
Florida Elections Commission	2	2	4
Agency Total	61	92	153
Department of Corrections			
Department of Corrections	6	6	12
Agency Total	6	6	12
County School Boards			
Bay County School Board	1	0	1
Brevard County School Board	1	2	3
Broward County School Board	19	34	53
Citrus County School Board	2	1	3
Clay County School Board	1	0	1
Collier County School Board	0	3	3
Miami-Dade County School Board	15	28	43
DeSoto County School Board	0	6	6

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2013 - 2014

AGENCY	Jul-Dec	Jan-June	TOTAL
Duval County School Board	10	3	13
Escambia County School Board	2	1	3
Gadsden County School Board	1	0	1
Hendry County School Board	1	1	2
Hernando County School Board	2	0	2
Highlands County School Board	0	1	1
Hillsborough County School Board	2	5	7
Indian River County School Board	1	0	1
Lake County School Board	0	2	2
Lee County School Board	5	6	11
Leon County School Board	0	2	2
Manatee County School Board	6	3	9
Marion County School Board	0	1	1
Monroe County School Board	0	1	1
Nassau County School Board	0	2	2
Okaloosa County School Board	0	2	2
Orange County School Board	8	14	22
Osceola County School Board	1	3	4
Palm Beach County School Board	13	10	23
Section 504 cases	1	1	2
Pasco County School Board	0	2	2
Pinellas County School Board	4	4	8
Polk County School Board	2	4	6
Putnam County School Board	0	2	2
St Johns County School Board	2	4	6
St Lucie County School Board	9	2	11
Santa Rosa County School Board	1	0	1
Sarasota County School Board	3	1	4
Seminole County School Board	15	12	27
Volusia County School Board	3	2	5
Walton County School Board	0	1	1
Charter Schools Non-renewal or Terminating	1	0	1
Agency Total	132	166	298
Department of Community Affairs			
Department of Community Affairs	1	0	1
Agency Total	1	0	1
Department of Elder Affairs			
Department of Elder Affairs	0	1	1
Agency Total	0	1	1
Division of Emergency Management			
Division of Emergency Management	0	1	1
Agency Total	0	1	1
Department of Economic Opportunity			
Department of Economic Opportunity	0	1	1
Agency Total	0	1	1
Department of Environmental Protection			
Department of Environmental Protection	13	24	37
Agency Total	13	24	37
Department of Financial Services			

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2013 - 2014

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Financial Services	1	3	4
Division of Insurance Agent and Agencies Services	10	13	23
Bureau of Unclaimed Property	2	3	5
Division of State Fire Marshal	4	1	5
Division of Funeral, Cemetery, and Consumer Service	3	5	8
Division of Workers' Compensation	47	52	99
Agency Total	67	77	144
Department of Health			
Department of Health	1	8	9
Board of Acupuncture	0	2	2
Board of Chiropractic	4	2	6
Board of Clinical Social Work, Marriage and Family	1	0	1
Board of Dentistry	3	2	5
Environmental Health	1	2	3
Bureau of Emergency Medical Services	1	0	1
Division of Emergency Preparedness and Community S	1	9	10
Board of Hearing Aid Specialists	0	1	1
Board of Medicine	15	22	37
Board of Massage Therapy	2	3	5
Board of Nursing	8	8	16
Board of Osteopathic Medicine	2	1	3
Board of Pharmacy	1	2	3
Board of Psychology	1	1	2
Board of Physical Therapy Practice	1	0	1
Agency Total	42	63	105
Department of Juvenile Justice			
Department of Juvenile Justice	14	3	17
Agency Total	14	3	17
Department of Law Enforcement			
Department of Law Enforcement	0	1	1
Criminal Justice Standards and Training Commission	6	8	14
Agency Total	6	9	15
Department of Military Affairs			
Department of Military Affairs	0	2	2
Agency Total	0	2	2
Department of Management Services			
Department of Management Services	3	5	8
Division of State Group Insurance	4	2	6
Division of Retirement	1	6	7
Agency Total	8	13	21
Department of Education			
Department of Education	4	4	8
Division of Blind Services	1	1	2
Charter Schools Operation	1	2	3
Confidential Vocational Rehabilitation Cases	3	4	7
Education Practices Commission	53	57	110
State Board of Education	0	1	1
Agency Total	62	69	131

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2013 - 2014

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of State			
Department of State	0	1	1
Agency Total	0	1	1
Department of Transportation			
Department of Transportation	8	10	18
Agency Total	8	10	18
Department of Business and Professional Regulation			
Department of Business and Professional Regulation	1	0	1
Board of Architecture	1	5	6
Barber`s Board	1	0	1
Building Code Administrators and Inspectors	0	2	2
Bureau of Elevator Safety	0	1	1
Construction Industry Licensing Board	3	3	6
Board of Cosmetology	0	1	1
Division of Alcoholic Beverages and Tobacco	0	16	16
Division of Drugs, Devices, and Cosmetics	1	1	2
Division of Real Estate	1	2	3
Electrical Contractors Licensing Board	2	1	3
Florida Real Estate Commission	2	5	7
Division of Hotels and Restaurants	37	23	60
Non-licensed Respondent	3	3	6
Division of Pari-Mutuel Wagering	1	9	10
Board of Professional Engineers	4	2	6
State Boxing Commission	2	0	2
Agency Total	59	74	133
Florida Housing Finance Corporation			
Florida Housing Finance Corporation	2	18	20
Agency Total	2	18	20
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	1	5	6
Agency Total	1	5	6
Growth Management (No Agency)			
Growth Management (No Agency)	8	9	17
Agency Total	8	9	17
Agency for Health Care Administration			
Agency for Health Care Administration	101	22	123
Audit Quality Control Services	3	0	3
Office of Certificate of Need	9	11	20
Medicaid Program Integrity	50	31	81
Office of Licensure and Certification	3	88	91
Agency Total	166	152	318
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	11	5	16
Section 320.642	14	4	18
Agency Total	25	9	34
Medical Arbitration			

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2013 - 2014

AGENCY	Jul-Dec	Jan-June	TOTAL
Medical Arbitration	8	6	14
Agency Total	8	6	14
Florida Birth-Related Neurological Injury Compensation			
Florida Birth-Related Neurological Injury Compensa	29	31	60
Agency Total	29	31	60
Office of Financial Regulation			
Office of Financial Regulation	11	7	18
Agency Total	11	7	18
Office of Insurance Regulation			
Office of Insurance Regulation	1	0	1
Insurance rate filings	0	1	1
Agency Total	1	1	2
Department of Revenue			
Department of Revenue	36	37	73
Child Support Enforcement Program	634	1,009	1,643
Agency Total	670	1,046	1,716
State Board of Administration			
State Board of Administration	2	2	4
Agency Total	2	2	4
Universities and Colleges			
Florida State University	1	0	1
University of North Florida	0	1	1
Agency Total	1	1	2
Water Management Districts			
Northwest Florida Water Management District	0	1	1
South Florida Water Management District	2	3	5
St. Johns River Water Management District	3	4	7
Suwannee River Water Management District	0	2	2
Southwest Florida Water Management District	1	0	1
Agency Total	6	10	16
NON BAKER ACT TOTAL	1,610	2,002	3,612
Baker Acts			
Correct Care Recovery Solutions	300	265	565
Department of Veterans Affairs	1	1	2
Florida State Hospital	250	220	470
Geo Group, Inc.	1	1	2
Lake Correctional Institution	8	9	17
Northeast Florida State Hospital	451	421	872
Peace River Center	1	0	1
Personal Enrichment Mental Health Services	1	0	1
West Florida Community Care Center	28	30	58
Baker Act Total	1,041	947	1,988

SUMMARY
Division of Administrative Hearings
Actual, Estimated and Requested Expenditures

Adjudication of Disputes

<u>Appropriation Category</u>	Actual Expenditures <u>FY 2013-14</u>	Estimated Expenditures <u>FY 2014-15</u>	Requested Expenditures <u>FY 2015-16</u>
Salaries and Benefits	\$6,987,125	\$6,987,793	\$6,987,793
Other Personal Services	\$0	\$18,082	\$18,082
Expenses	\$934,146	\$1,025,647	\$1,025,647
Operating Capital Outlay	\$65,000	\$65,000	\$65,000
Special Categories			
Contracted Services	\$185,898	\$185,495	\$185,495
Contracted Legal Svcs.	\$0	\$1,000	\$1,000
Risk Mgmt. Ins.	\$43,522	\$44,451	\$44,451
Lease/Purch/Equip	\$9,264	\$31,500	\$31,500
TR/DMS/HR SVCS	<u>\$20,682</u>	<u>\$21,204</u>	<u>\$21,204</u>
Total Program Budget	<u>\$8,245,637</u>	<u>\$8,380,172</u>	<u>\$8,380,172</u>
Total Program Positions	65	65	65

Workers' Compensation Appeals

<u>Appropriation Category</u>	Actual Expenditures <u>FY 2013-14</u>	Estimated Expenditures <u>FY 2014-15</u>	Requested Expenditures <u>FY 2015-16</u>
Salaries and Benefits	\$13,006,556	\$13,410,499	\$13,456,962
Other Personal Services	\$17,826	\$17,836	\$17,836
Expenses	\$2,638,058	\$2,670,622	\$2,695,842
Operating Capital Outlay	\$149,959	\$25,916	\$25,916
Special Categories			
Contracted Services	\$941,348	\$1,023,324	\$1,023,324
Contracted Legal Svcs.	\$5,511	\$1,279	\$1,279
Tenant Broker Commissions	\$48,494	\$0	\$0
Risk Mgmt. Ins.	\$67,515	\$77,915	\$77,915
Lease/Purchase/Equip	\$2,516	\$83,000	\$83,000
TR/DMS/HR SVCS	<u>\$60,254</u>	<u>\$61,775</u>	<u>\$61,775</u>
Total Program Budget	<u>\$16,938,037</u>	<u>\$17,372,166</u>	<u>\$17,443,849</u>
Total Program Positions	176	176	176

TOTAL DIVISION BUDGET	<u>\$25,183,674</u>	<u>\$25,752,338</u>	<u>\$25,824,021</u>
TOTAL DIVISION POSITIONS	241	241	241

2015 DOAH ANNUAL REPORT

#: 42

PERIOD: *July 1, 2014 - June 30, 2015*

DATE: January 29, 2016

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Robert S. Cohen, Chief Judge

PAGES: 25

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2015



STATE OF FLORIDA

DIVISION OF ADMINISTRATIVE HEARINGS



January 29, 2016

FORTY-SECOND ANNUAL REPORT

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**DIVISION OF ADMINISTRATIVE HEARINGS
FORTY-SECOND ANNUAL REPORT**

INTRODUCTION

This report is submitted to the Joint Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of section 120.65(8), Florida Statutes, which provides:

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.
- (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).

GENERAL

The Division of Administrative Hearings administers two programs. One, which is the subject of this report, is the Adjudication of Disputes program that operates pursuant to chapter 120, Florida Statutes. The other is the Workers' Compensation Appeals program, Office of the Judges of Compensation Claims (OJCC), which operates pursuant to chapter 440, Florida Statutes. Section 440.45(5), Florida Statutes, requires the OJCC to issue an annual report to the Governor, the House of Representatives, the Senate, The Florida Bar, and the statewide nominating commission. The OJCC annual report was submitted. Accordingly, the present report will focus primarily on the Adjudication of Disputes program. However, because the

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headquarters element of the Division must support both programs, this report necessarily must include some information addressing the OJCC.

We are proud to report some of the Clerk's Office accomplishments for 2015. At roughly the midpoint for the fiscal year, the Clerk's Office has already implemented an online portal for public records requests. This will allow the public greater access to records while reducing the amount of staff time required to respond to the numerous requests for records received every year. The Clerk's Office continues to work with the IT group to separate divisions from agencies which will allow smaller subdivisions to take advantage of the electronic filing of final orders that are available to the larger agencies. Another work in progress at the time of this report is generating invoices from the accounting system by electronic means.

UTILIZATION RATES

Appendix 1 breaks out by agency the utilization rates of Division resources and demonstrates, in descending order, that 12 agencies utilized 94 percent of the Division's docket: the Department of Revenue, the Department of Management Services, the Department of Education, the Agency for Health Care Administration, the Department of Health, the Department of Children and Families, the Department of Environmental Protection, the Department of Financial Services, the Department of Highway Safety and Motor Vehicles, the Department of Business and Professional Regulation, the Department of Transportation, and the Department of Agriculture. Additionally, entities such as water management districts, cities, counties, school districts, and other educational entities, are significant users of the Division's services and are reported separately since they are covered by contractual agreements.

During FY 2014-15, state agencies and other governmental entities referred 6,881 requests for assignment of an administrative law judge compared to 5,600 requests filed the

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previous year. This is a 23 percent increase from the previous fiscal year. Requests for assignment of Administrative Law Judges from the following six agencies constitute 56 percent of our fiscal year caseload: the Agency for Health Care Administration (347 cases, an increase of 9 percent over the 318 cases filed in FY 2013-14), the Department of Children and Families (134 cases, an increase of 17 percent over the 115 cases filed in FY 2013-14), the Department of Economic Opportunity (6 cases, an increase of 500 percent over the 1 case filed in FY 2013-14), the Department of Revenue (2,919 cases, an increase of 70 percent over the 1,716 cases filed in FY 2013-14), the Department of Financial Services (276 cases, an increase of 92 percent over the 144 cases filed in FY 2013-14), and the Florida Commission on Human Relations (151 cases, an increase of 9 percent over the 139 cases filed in FY 2013-14).

UTILIZATION OF PERSONNEL

As of June 30, 2015, the Adjudication of Disputes program had 65 established positions consisting of the Director and Chief Judge, the Deputy Chief Judge, 31 Administrative Law Judges, seven Administrative Secretaries, seven Administrative Assistants, one Budget Officer, one Executive Assistant, two Staff Assistants, one Administrative Services Director, one Personnel Officer, one Purchasing Agent, one Accountant, one Database Administrator, one Distributed Computer Systems Analyst, one Systems Programmer, one Clerk of the Division, two Commission Deputy Clerks, two Deputy Clerks, and two Senior Clerks. With one Administrative Secretary or Administrative Assistant assigned to three judges, this represents a highly efficient model for the adjudicatory process. Our judges utilize a minimum of administrative personnel to perform their assigned tasks.

The Workers' Compensation Appeals program had 176 established positions consisting of one Deputy Chief Judge of Compensation Claims, 31 Judges of Compensation Claims,

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28 State Mediators, 35 Deputy Clerks (includes 31 in the field offices and four in the central Clerk's Office), one Office Operations Manager, 38 Commission Deputy Clerks (includes 31 in the field offices and seven in the central Clerk's Office), five Administrative Assistants, 29 Administrative Secretaries, one Secretary Specialist, one Staff Assistant, one Accountant, one Court Reporter, one Distributed Computer Systems Administrator, two Distributed Computer Systems Analyst, and one Attorney. In an extremely high-volume area of the law and in recognition of the economic downturn, the program constantly seeks ways to combine staff positions and responsibilities in the interest of cost savings.

HEARING REQUESTS

During FY 2014-15, the Division processed 6,881 hearing requests compared to 5,600 cases filed the previous fiscal year. Of the total cases filed, 2,019 were Baker Act cases. The remaining 4,862 cases were primarily filed pursuant to sections 120.56, 120.569, and 120.57(1), Florida Statutes. Most notable were the referrals from the Department of Revenue, which increased its referrals by 70 percent with 2,919 cases filed this fiscal year compared to 1,716 cases previously reported. Other cases filed are itemized by agency in the attached Appendix 2.

In FY 2014-15, each Administrative Law Judge conducted an average of 192 hearings and wrote an average of 75 Recommended or Final Orders of varying length and complexity. In addition, each Judge closed an average of 56 cases, which were settled or otherwise dismissed without a final hearing. The case closure data does not include Baker Act closures.

INFORMATION TECHNOLOGY

The Division maintains two mission-critical databases and applications: the DOAH Case Management System (CMS) and the OJCC Case Management System (JCCa). Associated applications include full-text retrieval and document indexing of orders issued by the Division's

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Administrative Law Judges and Judges of Compensation Claims. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include office automation (word processing and e-mail) and online legal research via LexisNexis and other Internet resources.

Electronic Filing

During calendar year 2015, there were 38,720 documents uploaded via the eALJ filing portal; 47,052 documents were served (via email) to 179,380 parties of record. For the OJCC, 526,595 documents were uploaded via the eJCC filing portal; 654,428 documents were electronically served to 1,598,428 parties of record.

Indexing

Under section 120.53(2), Florida Statutes, all state agencies shall electronically transmit their agency final orders to the Division's website for indexing purposes, effective July 1, 2015. To date, a total of 76,639 documents have been submitted to the Agency Index Documents database, with 16,221 of those uploaded since July 1, 2015.

OPERATING BUDGET

The Division is 100 percent trust funded. Appendix 3 summarizes the actual, estimated, and requested expenditures for the Division's programs for FY 2014-15, FY 2015-16, and FY 2016-17, respectively.

For the Adjudication of Disputes program, each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours conducted by its judges for all agencies. Based on this data, the Division's budget is prorated among the state agencies utilizing its services, and the Legislature appropriates fund transfers to the Division from those agencies. Hence, the amount each agency transfers to the Division is based on the amount of

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time the judges spend in pre-hearing conferences, motion hearings, and final hearings for each agency in a given year. Beginning in FY 2003-04, data on cancelled and continued hearings were excluded from the report under the theory that the agencies should not be penalized for encouraging the resolution of disputes short of proceeding to hearing. In September 2015, the Division submitted its twenty-ninth "Hearing Hours Held" report (see Appendix 1). In FY 2014-15, a total of 4,242.25 hearing hours were held. (Appendix 1 excludes Baker Act hearing hours, which totaled 292.75 in FY 2014-15.)

The Division also is authorized to enter into contracts with non-state entities such as cities, counties, regional planning councils, water management districts, school districts, and other educational entities for the provision of Administrative Law Judge services. When needed, the Division also enters into a contract with the Florida Legislature to hear all Florida Senate claim bills that required a hearing before a Special Master. Contract organizations reimburse the Division for the costs of its services at a rate that is based on a total-cost-recovery methodology. The current contract rate is \$149 an hour, a most reasonable rate for adjudicatory services by experienced lawyer-judges.

The Division has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA's) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to non-state entities. This has been accomplished by revising each year the hourly rate that is paid by the non-state entities for Administrative Law Judge services, by marketing the Division's services to attract new non-state entities, and by backing out these revenues before the budget is prorated among the state agencies. The assessment for administrative support that is paid by the Workers' Compensation Appeals program also is backed out before the budget is prorated. Hence, state agency transfers

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have been reduced by about \$1.1 million in the Division's FY 2016-17 Legislative Budget Request. In the coming year, the Director and other members of the Division's staff will continue their efforts to solicit new contractual business from local government entities to further offset the cost of supporting the Division that is borne by our state agencies.

The Workers' Compensation Appeals program is supported by cash transfers from the Workers' Compensation Administration Trust Fund that is administered by the Department of Financial Services. This trust fund is funded through a workers' compensation premium tax assessment which supports the entire workers' compensation program, not only the appeals program administered by the Division.

RECOMMENDATIONS CONCERNING THE A.P.A.

The Division closely follows judicial decisions concerning the application and interpretation of the Administrative Procedure Act (A.P.A.). The Division clearly recognizes that it must remain fair and impartial in all matters affecting the agencies and private parties that come before it for adjudication of their disputes. However, pursuant to its statutory mandate in section 120.65(8)(b), Florida Statutes, the Division is required to make recommendations for changes or improvements in the A.P.A. "or any agency's practice or policy with respect thereto." Further, section 120.65 was amended in 2006 to require the Division to include recommendations as to the types of cases that should be conducted under the summary hearing process described in section 120.574, Florida Statutes. § 120.65(8)(c), Fla. Stat. Finally, section 120.65 was amended to require the Division's report to include information regarding each agency's compliance with the filing requirement in section 120.57(1)(m), Florida Statutes.

At the time of the issuance of this report, numerous bills have been filed in the Legislature for the 2016 Session that may affect the numbers and types of cases referred to

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DOAH. As in the past, the Division is working with the Legislature and proponents or opponents of any proposed legislation affecting administrative practice to ensure that the goals of due process and an efficient adjudication of disputes are maintained. This is generally done through the bill analysis process in which staff members ask whether fiscal and policy impacts might result from the passage of proposed legislation. It is the practice of the Division to respond timely to any such requests and to inform the Legislature that proposed statutory changes to improve the efficiency of the administrative process and to increase the caseload at DOAH are welcome. The Division also consults with the Administrative Law Section of The Florida Bar to ensure consistency of our position with those who routinely practice in the administrative law arena. The undersigned and any other necessary staff of the Division will cooperate fully with Legislative and Executive-branch requests regarding these or any other proposed procedural and substantive changes to chapter 120 or any statutes related to the adjudication of disputes in the administrative forum. We shall testify before legislative committees, meet with members of the Legislature, or confer with stakeholders, as requested, to provide information and insights into how proposed changes might affect the Division and the cases we hear.

The Division, if asked, will continue to perform Special Master duties under contract with the Florida Senate, and, when these matters are referred to the Division, the Administrative Law Judges assigned to hear legislative claim bills will continue to be called upon to support their decisions before the appropriate Senate committees and, when requested, on the Senate floor. Many high-profile claim bills have been heard by the Division's judges serving as Special Masters and positive feedback has been given to the Division by Senate leadership. The Division has taken on these new matters without the addition of new judges or support staff.

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As noted above, the Division has experienced immense growth in the use of filing of pleadings, orders, and other documents by electronic means since mandatory electronic filing has become the law. Under this system, registered users of the electronic filing program realize the efficiencies and savings afforded by not using the mail, both regular and overnight, courier services to file papers with the Division, copying charges and materials, and staff time to carry out each of these functions. Since the system is mandatory, not only has the Division saved costs, but the users of the system have realized great savings in time, effort, and the cost of materials and staff. Moreover, electronic filing has allowed all filed pleadings to be made available immediately on the Division's website for use by the public, thereby adding to the transparency of the work performed by the Division. As noted previously, the Workers' Compensation Appeals program has already instituted e-service of all pleadings and papers filed, which has resulted in additional cost savings for those who conduct business with the Division. Such savings will be realized by those filing documents in the Adjudication of Disputes program later this year when e-service is implemented in this program as well. Realizing that not everyone has access to a computer, the legislation carved out an exception to the requirement of electronic filing for those unable to gain reasonable access to a computer for filing documents. Many self-represented litigants have chosen to use the electronic filing system, even though not required to by law.

The summary hearing process set forth in section 120.574, Florida Statutes, has been selected by agencies and private parties only in rare instances since its enactment in 1998. In fact, to date, only three cases have been heard by the Division under this section. As we have done numerous times in the past, we will again note that if certain regulatory agencies, namely, those responsible for the prosecution of licensure disciplinary matters, such as the Department of

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Business and Professional Regulation and the Department of Health, were to refer their "misdemeanor" cases (those where the only penalty sought is an administrative fine) into the summary hearing process, the Division could assist with any backlog these agencies currently experience with respect to these cases. Also, if the minor infraction cases were referred to the Division for prompt adjudication, the regulatory agencies could concentrate their efforts (and precious meeting time for the volunteer members of the professional licensing boards) on the more serious matters which pose a threat to the health, safety, and welfare of the citizens of Florida. The Division could handle these additional summary matters with its current complement of judges and support staff.

Since 2009, the Division has offered video-teleconferencing capabilities in each of its 17 district offices around the state, as well as in the central offices in Tallahassee. As the Division has absorbed annual budget cuts, this capability has resulted in significant savings in costs and time, since the judges assigned to cases outside of Tallahassee are able to conduct many hearings via video, allowing them to maximize their office time to more timely issue the highly detailed orders that are required in administrative hearings. The video-teleconferencing technology has developed to the point where many attorneys prefer its use to the live hearing since multiple sites may be linked for a single hearing, allowing, for example, the judge and agency representatives to be in Tallahassee, the party involved in the hearing to be in Ft. Lauderdale, and perhaps even a witness to appear in Orlando, rather than having everyone travel to one location. The Workers' Compensation Appeals program has further utilized video teleconferencing to allow judges in districts that have experienced a downturn in the number of cases filed to alleviate some of the backlog in those districts still experiencing high volume. The use of video teleconferencing saves the cost of these judges traveling across the state and still

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provides a high-quality means of hearing the cases in a timely fashion. In addition to the use of video conferencing for hearings, video conferencing has become an invaluable training tool, allowing us to connect multiple cities to our trainers in Tallahassee, rather than sending people on the road to perform in-service training.

Pursuant to the requirement contained in section 120.65(8)(d), Florida Statutes, many agencies have improved the timeliness of filing their final orders with the Division. In this past fiscal year, 15 of the 33 reported agencies employing the services of the Division have completely or substantially complied with the 15-day filing requirement (Agency for Persons with Disabilities, Department of Agriculture and Consumer Services, Department of Corrections, Department of Economic Opportunity, Department of Elder Affairs, Department of Environmental Protection, Department of Highway Safety and Motor Vehicles, Department of Management Services, Department of Revenue, Department of Transportation, Florida Commission on Human Relations, Office of Financial Regulations, State Board of Administration, University and Colleges, and Water Management Districts). Overall, of the agency final orders filed with the Division between July 1, 2014, and June 30, 2015, 85 percent were filed within 15 days of entry by the agency. The Division once again intends to remind the agencies of the statutory requirement to timely file their final orders. Filing these final orders electronically makes the task a simple one for the agencies.

Finally, in 2015, the Administrative Law Section was successful in having legislation passed to require all agencies to file their final orders with the Division for indexing and retrieval. The Legislature designated the Division as the centralized electronic database for indexing agency final orders pursuant to section 120.53, Florida Statutes. Effective as of July 1, 2015, agencies now electronically transmit a certified text-searchable copy of each agency final

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order as described in 120.53(2), which was rendered on or after the effective date. Also, the agencies may electronically transmit certified copies of all of the final orders, which were required to be in the subject matter index and rendered prior to July 1, 2015, for the Division to keep and make those orders available to the public in a searchable database. Twenty-five agencies (Executive Office of the Governor, Department of Agriculture and Consumer Services, Department of Financial Services, Office of Financial Regulation, Agency for Health Care Administration, Agency for Persons with Disabilities, Department of Business and Professional Regulation, Department of Children and Families, Department of Corrections, Commission on Offender Review, Department of Economic Opportunity, Department of Community Affairs (prior to DEO), Florida Housing Finance Corporation, Department of Education, Department of Environmental Protection, Department of Health, Department of Highway Safety and Motor Vehicles, Department of Law Enforcement, Department of Management Services, Department of State, Florida Elections Commission, Florida Commission on Ethics, Public Employee Relations Commission, Public Service Commission, and the Water Management Districts) have already taken advantage of this service, and several agencies are now in the process of electronically transmitting these orders to the Division, which will publish them on its website for public use. The number of participants will continue to increase. To handle the increased number of documents received electronically, as well as to have sufficient space available for agency indexing of final orders, the Division upgraded its storage capabilities. As more agencies take advantage of this service, the day may again come when the Division may have to increase its data storage capabilities.

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CONCLUSION

The Division continues to supply high-quality adjudication of disputes pursuant to chapter 120, the Administrative Procedure Act. The Division constantly seeks ways to make the process more affordable to state agencies and citizens, and continues to expand its base to counties, cities, and other users of its program in order to reduce the cost of providing services. In the coming year, the Division will continue to focus its efforts on improved technology in order to streamline the electronic filing of all matters before it, as well as to improve access to the public for research, order preparation, and archiving. The Division strives to meet the performance standards required by the Legislature and the undersigned takes those a step further by striving to meet the performance standards now reviewed by the Governor and Cabinet sitting as the Administration Commission. Moreover, the Division is mindful of the cost of proceeding to hearing and seeks to minimize any potential delays in moving cases through the system. This ensures that individuals, small businesses, and major corporations reduce the cost, time, and opportunity lost through judicial delay. By helping matters move through the Division in an expeditious manner, the cost of litigation is reduced and the time lost in the pursuit of a remedy is reduced. Through the elimination of programs that are not cost-effective, the elimination of personnel no longer needed in the face of improved technology, promoting alternative dispute resolution short of hearing, the encouragement toward agencies to take advantage of the summary hearing process, and the increase in the number of non-state agencies contracting for the Division's services, the Division contributes to the goal of efficient government. To conclude, our number one concern is to ensure that all who appear before the Division are afforded due process in a fair and impartial setting, before a judge who treats them with respect and has a thorough understanding of the law to be applied in the matter at hand. We shall

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accomplish this without sacrificing quality and fairness in the Adjudication of Disputes program, and shall accomplish our goals without requesting additional funding from the Legislature, except in extraordinary circumstances.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert S. Cohen", written in a cursive style.

ROBERT S. COHEN
Director and Chief Judge

RSC/lds

6/30/2015

Appendix 1

HEARING HOURS HELD REPORT FY 2014-2015

For the Period 07/01/14 through 6/30/2015

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	PRORATED AMOUNT OF FY 2016-17 LBR
AGR	0.75	0.75	37.00	38.50	1.16314%	\$83,953
AHCA	17.25	8.50	127.00	152.75	4.61480%	\$333,089
APD	0.00	0.25	36.75	37.00	1.11782%	\$80,683
CIT	0.00	0.00	0.00	0.00	0.00000%	\$0
COR	1.00	0.50	23.25	24.75	0.74773%	\$53,970
DBPR	1.75	9.75	74.50	86.00	2.59819%	\$187,533
DCF	3.00	2.75	137.50	143.25	4.32779%	\$312,373
DEO	0.75	1.00	6.75	8.50	0.25680%	\$18,535
DEP	6.50	3.00	117.00	126.50	3.82175%	\$275,848
DFS	3.50	12.25	110.25	126.00	3.80665%	\$274,758
DIA	0.00	0.00	0.00	0.00	0.00000%	\$0
DLE	0.25	0.75	2.50	3.50	0.10574%	\$7,632
DMA	0.00	0.00	0.00	0.00	0.00000%	\$0
DMS	4.75	14.50	338.00	357.25	10.79305%	\$779,025
DOE	2.50	4.75	162.50	169.75	5.12840%	\$370,159
DOH	2.00	4.00	136.75	142.75	4.31269%	\$311,283
DOS	0.00	0.00	0.00	0.00	0.00000%	\$0
DOT	2.00	1.50	54.25	57.75	1.74471%	\$125,931
ELDER	0.00	0.00	2.50	2.50	0.07553%	\$5,452
ETH	0.25	0.25	15.00	15.50	0.46828%	\$33,800
FEC	0.00	0.00	0.00	0.00	0.00000%	\$0
FWCC	1.25	0.75	0.00	2.00	0.06042%	\$4,361
GOV	0.75	0.25	13.50	14.50	0.43807%	\$31,619
HSM	1.50	1.75	118.50	121.75	3.67825%	\$265,490
JUV	0.75	0.50	8.75	10.00	0.30211%	\$21,806
LOT	0.00	0.00	0.00	0.00	0.00000%	\$0
PSC	0.00	0.00	0.00	0.00	0.00000%	\$0
REV	1.00	2.75	1665.75	1669.50	50.43807%	\$3,640,537
VET	0.00	0.00	0.00	0.00	0.00000%	\$0
TOTAL:	51.50	70.50	3188.00	3310.00	100.00000%	\$7,217,837

NOTE: Hearing hours held in contract cases (water management districts, regional planning councils, cities, counties, school district/educational entity cases, etc.), NICA cases, and other miscellaneous cases are reported separately.

*Prior to prorating among state agencies, DOAH's FY 2016-17 Legislative Budget Request totaling \$8,355,526 was adjusted to reflect estimated revenue of \$557,825 from contract entities, payment of \$658,171 from the Workers' Compensation Appeals Program for general management and administrative services costs, estimated revenue of \$19,224 from cases filed pursuant to Chapter 403, Florida Statutes, and the estimated nonoperating cost of \$97,531 for state agency video teleconferencing hearings.

6/30/2015

Appendix 1

HEARING HOURS HELD BY CONTRACT/EDUCATIONAL/OTHER AGENCIES

FY 2014-2015

For the Period 07/01/14 through 6/30/15

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF HOURS ALL AGENCIES
CONTRACT					
EPP	2.25	4.75	177.00	184.00	4.33732%
TL	0.00	0.00	0.00	0.00	0.00000%
GM	0.50	0.25	49.50	50.25	1.51813%
MA	0.00	4.25	12.50	16.75	0.39484%
NICA	1.00	9.75	16.25	27.00	0.63645%
OTHER	0.25	0.00	0.50	0.75	0.01768%
SENATE CLAIM	0.00	0.00	0.00	0.00	0.00000%
SCHBDS	36.75	15.25	601.50	653.50	15.40456%
TOTAL:	40.75	34.25	857.25	932.25	21.97537%

CONTRACT: Water Management Districts, Regional Planning Councils, Cities, Counties, etc., as specified in § 120.65(9), Fla. Stat.

EPP: Electrical Power Plant siting cases filed by DEP, pursuant to Ch. 403, Fla. Stat.

TL: Transmission line siting cases filed by DEP, pursuant to Ch. 403, Fla. Stat.

GM: Growth Management cases filed by individuals, pursuant to § 163.3184(5), Fla. Stat.

MA: Medical Arbitration

NICA: Florida Birth-Related Neurological Injury Compensation Association

OTHER: Noncontract entities such as Victims of Wrongful Incarceration Compensation Act

SENATE CLAIM BILLS: Excess judgment claims and equitable claims, pursuant to Senate Rules 4.81

SCHBDS: School boards and other educational entities specified in § 120.65(9), Fla. Stat.

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2014 - 2015

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	1	6	7
Bureau of License and Bond	0	2	2
Office of Citrus License and Bond	2	3	5
Division of Consumer Services	1	0	1
Division of Licensing	2	1	3
Agency Total	6	12	18
Agency for Persons with Disabilities			
Agency for Persons with Disabilities	12	15	27
License	0	4	4
Agency Total	12	19	31
Department of Children and Family Services			
Department of Children and Family Services	1	1	2
Exemption Ch. 435, position of special trust	25	15	40
Family Safety and Preservation Programs	43	47	90
Office of Licensure and Certification	0	2	2
Non-Baker Act Total	69	65	134
Contract Hearings			
City of Clearwater	1	2	3
Citrus County	0	1	1
Code Enforcement	1	2	3
Emerald Coast Utilities Authority	1	1	2
Leon County	0	1	1
Pinellas County	0	2	2
Sanford Airport Authority	0	1	1
Agency Total	3	10	13
Florida Commission on Human Relations			
Florida Commission on Human Relations	78	50	128
Fair Housing Act	10	13	23
Agency Total	88	63	151
Department of Citrus			
Department of Citrus	1	0	1
Agency Total	1	0	1
Department of Corrections			
Department of Corrections	3	0	3
Agency Total	3	0	3
Citizens Property Insurance			
Citizens Property Insurance	1	6	7
Agency Total	1	6	7
County School Boards			
Alachua County School Board	1	1	2
Bay County School Board	0	1	1
Brevard County School Board	3	4	7
Broward County School Board	6	25	31
Charlotte County School Board	0	2	2
Citrus County School Board	2	0	2

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2014 - 2015

AGENCY	Jul-Dec	Jan-June	TOTAL
Columbia County School Board	0	1	1
Miami-Dade County School Board	29	28	57
DeSoto County School Board	0	1	1
Duval County School Board	6	7	13
Escambia County School Board	1	0	1
Flagler County School Board	0	1	1
Franklin County School Board	0	1	1
Gilchrist County School Board	1	0	1
Hamilton County School Board	0	2	2
Hernando County School Board	0	3	3
Highlands County School Board	5	7	12
Hillsborough County School Board	2	3	5
Holmes County School Board	0	1	1
Lake County School Board	3	0	3
Lee County School Board	2	5	7
Leon County School Board	1	1	2
Levy County School Board	0	1	1
Martin County School Board	0	2	2
Monroe County School Board	1	0	1
Okaloosa County School Board	1	1	2
Orange County School Board	3	8	11
Osceola County School Board	1	0	1
Palm Beach County School Board	10	16	26
Section 504 cases	4	7	11
Pasco County School Board	1	2	3
Pinellas County School Board	4	12	16
Polk County School Board	3	5	8
Putnam County School Board	0	1	1
St Johns County School Board	3	5	8
St Lucie County School Board	7	5	12
Santa Rosa County School Board	1	1	2
Sarasota County School Board	2	1	3
Seminole County School Board	9	8	17
Suwannee County School Board	1	2	3
Charter Schools Non-renewal or Terminating	3	5	8
School for the Deaf and Blind	1	0	1
Agency Total	117	176	293
Division of Emergency Management			
Division of Emergency Management	0	3	3
Agency Total	0	3	3
Department of Economic Opportunity			
Department of Economic Opportunity	2	4	6
Agency Total	2	4	6
Department of Environmental Protection			
Department of Environmental Protection	15	14	29
Agency Total	15	14	29
Department of Financial Services			
Department of Financial Services	0	3	3
Division of Insurance Agent and Agency Services	6	4	10
Bureau of Unclaimed Property	1	1	2
Division of State Fire Marshal	3	1	4

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2014 - 2015

AGENCY	Jul-Dec	Jan-June	TOTAL
Division of Funeral, Cemetery, and Consumer Service	0	7	7
Division of Workers' Compensation	50	200	250
Agency Total	60	216	276
Department of Health			
Department of Health	6	10	16
Board of Chiropractic	1	1	2
Board of Dentistry	4	1	5
Drugs, Devices, and Cosmetics Program	3	2	5
Environmental Health	2	1	3
Bureau of Emergency Medical Services	2	0	2
Board of Medicine	12	17	29
Board of Massage Therapy	1	4	5
Board of Nursing Home Administrators	1	0	1
Board of Nursing	12	13	25
Board of Osteopathic Medicine	1	1	2
Board of Pharmacy	1	6	7
Board of Physical Therapy Practice	2	0	2
Vital Records and Statistics	0	1	1
Agency Total	48	57	105
Department of Juvenile Justice			
Department of Juvenile Justice	14	5	19
Agency Total	14	5	19
Department of Law Enforcement			
Department of Law Enforcement	1	1	2
Criminal Justice Standards and Training Commission	2	4	6
Agency Total	3	5	8
Department of Management Services			
Department of Management Services	1	0	1
Convicted Vendor List	0	1	1
Division of State Group Insurance	4	10	14
Division of Retirement	2	0	2
Agency Total	7	11	18
Department of Education			
Department of Education	1	4	5
Charter Schools Operation	2	1	3
Confidential Vocational Rehabilitation Cases	5	14	19
Education Practices Commission	55	50	105
Independent, Postsecondary, Vocational, Technical	1	0	1
Vocational Rehabilitation Services	2	0	2
Agency Total	66	69	135
Department of Transportation			
Department of Transportation	11	15	26
Agency Total	11	15	26
Department of Business and Professional Regulation			
Board of Accountancy	1	3	4
Board of Architecture	4	3	7
Building Code Administrators and Inspectors	1	1	2
Construction Industry Licensing Board	7	5	12

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2014 - 2015

AGENCY	Jul-Dec	Jan-June	TOTAL
Division of Alcoholic Beverages and Tobacco	16	7	23
Division of Drugs, Devices, and Cosmetics	1	3	4
Division of Real Estate	3	0	3
Electrical Contractors Licensing Board	1	0	1
Florida Real Estate Appraisal Board	1	0	1
Florida Real Estate Commission	3	1	4
Division of Hotels and Restaurants	12	8	20
Division of Land Sales, Condominiums, and Mobile H	1	1	2
Mold Related Services Licensing Program	1	0	1
Non-licensed Respondent	9	8	17
Board of Pilot Commissioners	1	0	1
Division of Pari-Mutuel Wagering	9	3	12
Board of Professional Engineers	0	8	8
Board of Veterinary Medicine	1	0	1
Agency Total	72	51	123
Florida Commission on Ethics			
Florida Commission on Ethics	1	4	5
Agency Total	1	4	5
Florida Elections Commission			
Florida Elections Commission	3	0	3
Agency Total	3	0	3
Florida Housing Finance Corporation			
Florida Housing Finance Corporation	0	7	7
Agency Total	0	7	7
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	3	3	6
Agency Total	3	3	6
Growth Management (No Agency)			
Growth Management (No Agency)	4	9	13
Agency Total	4	9	13
Office of the Governor			
Florida Land and Water Adjudicatory Commission	0	1	1
Florida Land and Water Adjudicatory Commission, Co	1	0	1
Agency Total	1	1	2
Agency for Health Care Administration			
Agency for Health Care Administration	20	12	32
Audit Quality Control Services	1	4	5
Office of Certificate of Need	4	59	63
Medicaid Cost Reimbursement	23	68	91
Medicaid Program Integrity	32	33	65
Office of Licensure and Certification	50	41	91
Agency Total	130	217	347
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	5	5	10
Section 320.642	7	6	13
Agency Total	12	11	23

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2014 - 2015

AGENCY	Jul-Dec	Jan-June	TOTAL
Medical Arbitration			
Medical Arbitration	12	16	28
Agency Total	12	16	28
Florida Birth-Related Neurological Injury Compensation			
Florida Birth-Related Neurological Injury Compensa	27	27	54
Agency Total	27	27	54
Office of Financial Regulation			
Office of Financial Regulation	10	7	17
Agency Total	10	7	17
Office of Insurance Regulation			
Office of Insurance Regulation	2	3	5
Agency Total	2	3	5
Public Employee Relations Commission			
Public Employee Relations Commission	0	1	1
Agency Total	0	1	1
Department of Revenue			
Department of Revenue	34	20	54
Child Support Enforcement (payment, lien, levy)	0	1	1
Child Support Enforcement Program	1,241	1,623	2,864
Agency Total	1,275	1,644	2,919
Self-contained Agencies			
Pinellas County Construction Licensing Board	0	2	2
Agency Total	0	2	2
Universities and Colleges			
Florida A & M University	1	0	1
Florida International University	0	1	1
Miami-Dade Community College	0	3	3
Seminole Community College	1	0	1
University of Central Florida	1	1	2
University of West Florida	0	1	1
Agency Total	3	6	9
Water Management Districts			
Water Management Districts	0	2	2
Northwest Florida Water Management District	0	1	1
South Florida Water Management District	1	8	9
St. Johns River Water Management District	3	0	3
Southwest Florida Water Management District	6	1	7
Agency Total	10	12	22
NON BAKER ACT TOTAL	2,091	2,771	4,862

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2014 - 2015

AGENCY	Jul-Dec	Jan-June	TOTAL
Baker Acts			
Correct Care Recovery Solutions	302	288	590
Correct Care Recovery Solutions Arcadia	2	0	2
Department of Veterans Affairs	2	2	4
Florida State Hospital	251	228	479
James A. Harley VA Hospital	0	1	1
Lake Correctional Institution	9	8	17
Meridan Behavioral Healthcare Lake City	1	0	1
Meridian Behavioral Healthcare, Inc.	0	2	2
Northeast Florida State Hospital	409	441	850
Shands at Vista	0	1	1
UF Health University of Florida Health	0	1	1
West Florida Community Care Center	40	31	71
Baker Act Total	1,016	1,003	2,019

SUMMARY
Division of Administrative Hearings
Actual, Estimated and Requested Expenditures

Adjudication of Disputes

<u>Appropriation Category</u>	Actual Expenditures <u>FY 2014-15</u>	Estimated Expenditures <u>FY 2015-16</u>	Requested Expenditures <u>FY 2016-17</u>
Salaries and Benefits	\$6,944,137	\$6,988,620	\$6,988,620
Other Personal Services	\$2,557	\$18,082	\$18,082
Expenses	\$980,386	\$1,005,647	\$1,025,647
Operating Capital Outlay	\$74,680	\$65,000	\$65,000
Special Categories			
Contracted Services	\$190,845	\$205,495	\$185,495
Contracted Legal Svcs.	\$5,661	\$14,750	\$1,000
Risk Mgmt. Ins.	\$44,451	\$18,850	\$18,850
Lease/Purch/Equip	\$13,744	\$17,750	\$31,500
TR/DMS/HR SVCS	<u>\$21,204</u>	<u>\$21,332</u>	<u>\$21,332</u>
Total Program Budget	<u>\$8,277,665</u>	<u>\$8,355,526</u>	<u>\$8,355,526</u>
Total Program Positions	65	65	65

Workers' Compensation Appeals

<u>Appropriation Category</u>	Actual Expenditures <u>FY 2014-15</u>	Estimated Expenditures <u>FY 2015-16</u>	Requested Expenditures <u>FY 2016-17</u>
Salaries and Benefits	\$13,196,778	\$13,465,634	\$13,465,634
Other Personal Services	\$18,725	\$17,836	\$17,836
Expenses	\$2,624,841	\$2,695,842	\$2,695,842
Operating Capital Outlay	\$99,397	\$64,916	\$64,916
Special Categories			
Contracted Services	\$963,229	\$1,023,324	\$1,023,324
Contracted Legal Svcs.	\$24,538	\$32,529	\$1,279
Tenant Broker Commissions	\$35,523	\$12,913	\$0
Risk Mgmt. Ins.	\$77,915	\$72,286	\$72,286
Lease/Purchase/Equip	\$6,779	\$12,750	\$44,000
TR/DMS/HR SVCS	<u>\$61,774</u>	<u>\$62,148</u>	<u>\$62,148</u>
Total Program Budget	<u>\$17,109,499</u>	<u>\$17,460,178</u>	<u>\$17,447,265</u>
Total Program Positions	176	176	176

TOTAL DIVISION BUDGET	<u>\$25,387,164</u>	<u>\$25,815,704</u>	<u>\$25,802,791</u>
TOTAL DIVISION POSITIONS	241	241	241

2016 DOAH ANNUAL REPORT

#: 43

PERIOD: *July 1, 2015 - June 30, 2016*

DATE: January 31, 2017

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Robert S. Cohen, Chief Judge

PAGES: 25

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2016



STATE OF FLORIDA

DIVISION OF ADMINISTRATIVE HEARINGS



January 31, 2017

FORTY-THIRD ANNUAL REPORT

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**DIVISION OF ADMINISTRATIVE HEARINGS
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INTRODUCTION

This report is submitted to the Joint Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of section 120.65(8), Florida Statutes, which provides:

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.
- (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).

GENERAL

The Division of Administrative Hearings (Division) administers two programs. One, which is the subject of this report, is the Adjudication of Disputes program that operates pursuant to chapter 120, Florida Statutes. The other is the Workers' Compensation Appeals program, Office of the Judges of Compensation Claims (OJCC), which operates pursuant to chapter 440, Florida Statutes. Section 440.45(5), Florida Statutes, requires the OJCC to issue an annual report to the Governor, the House of Representatives, the Senate, The Florida Bar, and the statewide nominating commission. The OJCC annual report was submitted. Accordingly, the present report will focus primarily on the Adjudication of Disputes program. However, because the

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headquarters element of the Division must support both programs, this report necessarily must include some information addressing the OJCC.

The Clerk's Office at the Division is constantly seeking ways to make the electronic filing and service of pleadings more streamlined and user-friendly. Additionally, the availability of the online dockets and the indexing of final orders performed by the Division for all state agencies is an area where improvements can be made in search engine capabilities and improvement of access of the orders to the public. In 2017, the Clerk's Office, in conjunction with the information technology (IT) staff, will enhance the case search to include locating documents within dockets for non-confidential cases giving greater access to the Division's database. Also, eService will expand to include links to Administrative Law Judge rulings, along with the motions and/or responses.

UTILIZATION RATES

Appendix 1 breaks out by agency the utilization rates of Division resources and demonstrates, in descending order, that 12 agencies utilized 97 percent of the Division's docket: the Department of Revenue, the Agency for Health Care Administration, the Department of Management Services, the Department of Children and Families, the Department of Financial Services, the Department of Health, the Department of Business and Professional Regulation, the Department of Education, the Agency for Persons with Disabilities, the Department of Transportation, the Department of Environmental Protection, and the Department of Agriculture and Consumer Services. Additionally, entities such as water management districts, cities, counties, school districts, and other educational entities, are significant users of the Division's services and are reported separately since they are covered by contractual agreements.

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During FY 2015-16, state agencies and other governmental entities referred 7,293 requests for assignment of an administrative law judge compared to 6,881 requests filed the previous year. This is a six-percent increase from the previous fiscal year. Requests for assignment of Administrative Law Judges from the following six agencies constitute 58 percent of our fiscal year caseload: the Department of Financial Services (364 cases, an increase of 32 percent over the 276 cases filed in FY 2015-16); the Department of Education (165 cases, an increase of 22 percent over the 135 cases filed in FY 2015-16); the Department of Business and Professional Regulation (177 cases, an increase of 44 percent over the 123 cases filed in FY 2015-16); the Department of Revenue (3,478 cases, an increase of 19 percent over the 2,919 cases filed in FY 2015-16); the Florida Commission on Ethics (5 cases, an increase of 67 percent over the 3 cases filed in FY 2015-16); and the Office of Financial Regulation (24 cases, an increase of 41 percent over the 17 cases filed in FY 2015-16).

UTILIZATION OF PERSONNEL

As of June 30, 2016, the Adjudication of Disputes program had 65 established positions consisting of the Director and Chief Judge, the Deputy Chief Judge, 31 Administrative Law Judges, seven Administrative Secretaries, five Administrative Assistants, one Budget Officer, one Executive Assistant, two Staff Assistants, one Administrative Services Director, one Personnel Officer, one Purchasing Specialist, one Professional Accountant Specialist, one Operations and Management Consultant, one Accountant, one Database Administrator, one Distributed Computer Systems Analyst, one Systems Programmer, one Clerk of the Division, two Commission Deputy Clerks, two Deputy Clerks, and two Senior Clerks. With one Administrative Secretary or Administrative Assistant assigned to three judges, this represents a

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highly efficient model for the adjudicatory process. Our judges utilize a minimum of administrative personnel to perform their assigned tasks.

The Workers' Compensation Appeals program had 176 established positions consisting of one Deputy Chief Judge of Compensation Claims, 31 Judges of Compensation Claims, 28 Senior Attorneys/State Mediators (these positions were retitled from State Mediators and moved from the Elected/Appointed Pay Plan to the Selected Exempt Service Pay Plan, effective July 1, 2015), 35 Deputy Clerks (includes 31 in the field offices and four in the central Clerk's Office), one Office Operations Manager, 38 Commission Deputy Clerks (includes 31 in the field offices and seven in the central Clerk's Office), five Administrative Assistants, 29 Administrative Secretaries, one Secretary Specialist, one Staff Assistant, one Accountant, one Court Reporter, one Distributed Computer Systems Administrator, two Distributed Computer Systems Analyst, and one Attorney. In an extremely high-volume area of the law and in recognition of the economic downturn, the program constantly seeks ways to combine staff positions and responsibilities in the interest of cost savings.

HEARING REQUESTS

During FY 2015-16, the Division processed 7,293 hearing requests compared to 6,881 cases filed the previous fiscal year. Of the total cases filed, 1,871 were Baker Act cases. The remaining 5,422 cases were primarily filed pursuant to sections 120.56, 120.569, and 120.57(1), Florida Statutes. Most notable were the referrals from the Department of Revenue, which increased its referrals by 19 percent with 3,478 cases filed this fiscal year compared to 2,919 cases previously reported. Other cases filed are itemized by agency in the attached Appendix 2.

In FY 2015-16, each Administrative Law Judge conducted an average of 187 hearings and wrote an average of 99 Recommended or Final Orders of varying length and complexity. In

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addition, each Judge closed an average of 65 cases, which were settled or otherwise dismissed without a final hearing. The case closure data does not include Baker Act closures.

INFORMATION TECHNOLOGY

The Division maintains two mission-critical databases and applications: the DOAH Case Management System (CMS) and the OJCC Case Management System (JCCa). Associated applications include full-text retrieval and document indexing of orders issued by the Division's Administrative Law Judges and Judges of Compensation Claims. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include office automation (word processing and e-mail) and online legal research via LexisNexis and other Internet resources.

Electronic Filing

During calendar year 2016, there were 44,270 documents uploaded via the eALJ filing portal; 42,510 documents were served (via email) to 143,415 parties of record. For the OJCC, 569,540 documents were uploaded via the eJCC filing portal; 718,191 documents were electronically served to 1,615,083 parties of record.

Indexing

Under section 120.53(2), Florida Statutes, all state agencies shall electronically transmit their agency final orders to the Division's website for indexing purposes, effective July 1, 2015. To date, a total of 107,088 documents have been submitted to the Agency Index Documents database, with 29,279 of those uploaded in calendar year 2016.

Cybersecurity

The Division has long been concerned with the integrity of its IT systems. This concern has grown out of a responsibility we feel to those whose private information is transmitted to our

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care through electronic means; to appropriate walls being developed to keep that private information away from all but those who are entitled to view it; and to appropriate measures being taken to ensure that the users of the Division's systems do not accidentally release confidential information to those not entitled to it or to infecting the IT systems with malware or other intrusions from outside entities that are not authorized to view confidential or proprietary information. In 2016, the Division's primary IT focus was on security. The initiatives included: cybersecurity awareness training for all users focused on safe mobile computing and learning to recognize malicious emails; installation of a network device for enhanced threat detection and prevention; and completion of the first phase of a statutorily required risk assessment (penetration testing). We will continue to comply with all state laws and rules that may be developed, as well as our internally produced protocols to ensure the Division's IT systems are secure from both external and internal attack.

OPERATING BUDGET

The Division is 100 percent trust funded. However, in FY 2016-17, the Division received \$6,286 in non-recurring General Revenue per Specific Appropriation 1961B to obtain security training for the IT staff. Appendix 3 summarizes the actual, estimated, and requested expenditures for the Division's programs for FY 2015-16, FY 2016-17, and FY 2017-18, respectively.

For the Adjudication of Disputes program, each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours conducted by its judges for all agencies. Based on this data, the Division's budget is prorated among the state agencies utilizing its services, and the Legislature appropriates fund transfers to the Division from those agencies. Hence, the amount each agency transfers to the Division is based on the amount of

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time the judges spend in pre-hearing conferences, motion hearings, and final hearings for each agency in a given year. Beginning in FY 2003-04, data on cancelled and continued hearings were excluded from the report under the theory that the agencies should not be penalized for accomplishing the resolution of disputes short of proceeding to hearing. In October 2016, the Division submitted its thirtieth "Hearing Hours Held" report (see Appendix 1). In FY 2015-16, a total of 5,344.75 hearing hours were held. (Appendix 1 excludes Baker Act hearing hours, which totaled 284.25 in FY 2015-16.)

The Division also is authorized to enter into contracts with non-state entities, such as cities, counties, regional planning councils, water management districts, school districts, and other educational entities for the provision of Administrative Law Judge services. When needed, the Division also enters into a contract with the Florida Legislature to hear all Florida Senate claim bills that require a hearing before a Special Master. Contract organizations reimburse the Division for the costs of its services at a rate that is based on a total-cost-recovery methodology. The current contract rate is \$149 an hour, a most reasonable rate for adjudicatory services by experienced lawyer-judges.

The Division has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to non-state entities. This has been accomplished by revising each year the hourly rate that is paid by the non-state entities for Administrative Law Judge services, by marketing the Division's services to attract new non-state entities, and by backing out these revenues before the budget is prorated among the state agencies. The assessment for administrative support that is paid by the Workers' Compensation Appeals program also is backed out before the budget is prorated. Hence, state agency transfers

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have been reduced by about \$1.1 million in the Division's FY 2017-18 Legislative Budget Request. In the coming year, the Director and other members of the Division's staff will continue their efforts to solicit new contractual business from local government entities to further offset the cost of supporting the Division that is borne by our state agencies.

The Workers' Compensation Appeals program is supported by cash transfers from the Workers' Compensation Administration Trust Fund that is administered by the Department of Financial Services. This trust fund is funded through a workers' compensation premium tax assessment which supports the entire workers' compensation program, not only the appeals program administered by the Division.

RECOMMENDATIONS CONCERNING THE A.P.A.

The Division closely follows judicial decisions concerning the application and interpretation of the Administrative Procedure Act (A.P.A.). The Division clearly recognizes that it must remain fair and impartial in all matters affecting the agencies and private parties that come before it for adjudication of their disputes. However, pursuant to its statutory mandate in section 120.65(8)(b), Florida Statutes, the Division is required to make recommendations for changes or improvements in the A.P.A. "or any agency's practice or policy with respect thereto." Over the past several years, this report has contained a discussion of how the Division can help those agencies housing professional licensing boards (the Department of Business and Professional Regulation and the Department of Health). Although these agencies have not chosen to avail themselves of our offer, we remain willing and able to create dockets to handle minor violations involving fines and compliance only (as opposed to suspension or revocation of licenses) to allow the professional licensing boards, comprised of volunteers who often meet on weekends away from their homes, to lighten their loads to allow them to concentrate on the more

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severe cases that come before them. As stated previously, section 120.65, Florida Statutes, was amended in 2006 to require the Division to include recommendations as to the types of cases that should be conducted under the summary hearing process described in section 120.574, Florida Statutes. § 120.65(8)(c), Fla. Stat. Finally, section 120.65, Florida Statutes, was amended to require the Division's report to include information regarding each agency's compliance with the filing requirement in section 120.57(1)(m), Florida Statutes. We believe these “minor violation” matters are exactly what were contemplated by the summary hearing procedure, and sending a portion or all of these matters to the Division would save the agencies housing these boards’ time and resources. The Division could handle these additional summary matters with its current complement of judges and support staff.

At the time of the issuance of this report, a handful of bills have been filed in the Legislature for the 2017 Session that may affect the numbers and types of cases referred to the Division. As in the past, the Division will work with the Legislature and proponents or opponents of any proposed legislation affecting administrative practice to ensure that the goals of due process and the efficient adjudication of disputes are maintained. This is generally done through the bill analysis process in which staff members ask whether fiscal and policy impacts might result from the passage of proposed legislation. It is the practice of the Division to respond timely to any such requests and to inform the Legislature that proposed statutory changes to improve the efficiency of the administrative process and to increase the caseload at the Division are welcome. The Division also consults with the Administrative Law Section of The Florida Bar to ensure consistency of our position with those who routinely practice in the administrative law arena. The undersigned and any other necessary staff of the Division will cooperate fully with Legislative and Executive branch requests regarding these or any other

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proposed procedural and substantive changes to chapter 120, Florida Statutes, or any statutes related to the adjudication of disputes in the administrative forum. We shall testify before legislative committees, meet with members of the Legislature, or confer with stakeholders, as requested, to provide information and insights into how proposed changes might affect the Division and the cases we hear.

As noted above, the Division has experienced immense growth in the use of filing of pleadings, orders, and other documents by electronic means since mandatory electronic filing has become the law. Under this system, registered users of the electronic filing program continue to realize the efficiencies and savings afforded by not using the mail, both regular and overnight, courier services to file papers with the Division, copying charges and materials, and staff time to carry out each of these functions. Since the system is mandatory, not only has the Division saved costs, but the users of the system have realized great savings in time, effort, and the cost of materials and staff. Moreover, electronic filing has allowed all filed pleadings to be made available immediately on the Division's website for use by the public, thereby adding to the transparency of the work performed by the Division. Notably, it is anticipated that legislation will pass during the 2017 Session to formally allow the Division to electronically serve all pleadings and orders on the registered parties in our cases. This will eliminate any costs associated with attorney's serving pleadings and documents on opposing counsel or parties, if self-represented. Further, this mandate will eliminate any disputes between attorneys and parties concerning whether they were actually served with papers filed at the Division. The Workers' Compensation Appeals program has already instituted e-service of all pleadings and papers filed, which has resulted in additional cost savings for those who conduct business with the Division. Realizing that not everyone has access to a computer, the legislation carved out an exception to

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the requirement of electronic filing for those unable to gain reasonable access to a computer for filing documents. Many self-represented litigants have chosen to use the electronic filing system, even though not required to by law since they have realized the value of a no-cost way of filing their papers and pleadings.

Since 2009, the Division has offered video-teleconferencing capabilities in each of its 17 district offices around the state, as well as in the central offices in Tallahassee. As the Division has absorbed annual budget cuts, this capability has resulted in significant savings in costs and time, since the judges assigned to cases outside of Tallahassee are able to conduct many hearings via video, allowing them to maximize their office time to more timely issue the highly detailed orders that are required in administrative hearings. The video-teleconferencing technology has developed to the point where many attorneys prefer its use to the live hearing since multiple sites may be linked for a single hearing, allowing, for example, the judge and agency representatives to be in Tallahassee, the party involved in the hearing to be in Ft. Lauderdale, and perhaps even a witness to appear in Orlando, rather than having everyone travel to one location. The Workers' Compensation Appeals program has further utilized video teleconferencing to allow judges in districts that have experienced a downturn in the number of cases filed to alleviate some of the backlog in those districts still experiencing high volume. The use of video teleconferencing saves the cost of these judges traveling across the state and still provides a high-quality means of hearing the cases in a timely fashion. In addition to the use of video teleconferencing for hearings, video teleconferencing has become an invaluable training tool, allowing us to connect multiple cities to our trainers in Tallahassee, rather than sending people on the road to perform in-service training.

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Pursuant to the requirement contained in section 120.65(8)(d), Florida Statutes, many agencies have improved the timeliness of filing their final orders with the Division. In this past fiscal year, 16 of the 33 reported agencies employing the services of the Division have completely or substantially complied with the 15-day filing requirement (Agency for Persons with Disabilities, Contract hearings, Department of Business and Professional Regulation, Department of Corrections, Department of Economic Opportunity, Department of Health, Department of Highway Safety and Motor Vehicles, Department of Law Enforcement, Department of Management Services, Department of Revenue, Department of Transportation, Florida Commission on Human Relations, Office of Financial Regulations, State Board of Administration, University and Colleges, and Water Management Districts). Overall, of the agency final orders filed with the Division between July 1, 2015, and June 30, 2016, 88 percent were filed within 15 days of entry by the agency. The Division once again intends to remind the agencies of the statutory requirement to timely file their final orders. Filing these final orders electronically makes the task a simple one for the agencies.

Finally, in 2015, the Administrative Law Section was successful in having legislation passed to require all agencies to file their final orders with the Division for indexing and retrieval. The Legislature designated the Division as the centralized electronic database for indexing agency final orders pursuant to section 120.53, Florida Statutes. Effective as of July 1, 2015, agencies now electronically transmit a certified text-searchable copy of each agency final order as described in section 120.53(2), Florida Statutes, which was rendered on or after the effective date. Also, the agencies may electronically transmit certified copies of all of the final orders, which were required to be in the subject matter index and rendered prior to July 1, 2015, for the Division to keep and make those orders available to the public in a searchable database.

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Thirty agencies (Executive Office of the Governor, Department of Agriculture and Consumer Services, Department of Financial Services, Office of Financial Regulation, Agency for Health Care Administration, Agency for Persons with Disabilities, Department of Business and Professional Regulation, Department of Children and Families, Department of Corrections, Commission on Offender Review, Department of Economic Opportunity, Department of Community Affairs (prior to DEO), Florida Housing Finance Corporation, Department of Education, Department of Environmental Protection, Department of Health, Department of Highway Safety and Motor Vehicles, Department of Law Enforcement, Department of Management Services, Department of State, Florida Elections Commission, Florida Commission on Ethics, Public Employee Relations Commission, Public Service Commission, County School Boards, Department of Lottery, Department of Transportation, State Board of Administration, Department of Revenue and the Water Management Districts) have already taken advantage of this service.

CONCLUSION

The Division continues to supply high-quality adjudication of disputes pursuant to chapter 120, the Administrative Procedure Act. The Division constantly seeks ways to make the process more affordable to state agencies and citizens, and continues to expand its base to counties, cities, and other users of its program in order to reduce the cost of providing services. In the coming year, the Division will continue to focus its efforts on improved technology in order to streamline the electronic filing of all matters before it, as well as to improve access to the public for research, order preparation, and archiving. The Division strives to meet the performance standards required by the Legislature and the undersigned takes those a step further by striving to meet the performance standards now reviewed by the Governor and Cabinet sitting

DIVISION OF ADMINISTRATIVE HEARINGS
FORTY-THIRD ANNUAL REPORT

as the Administration Commission. Moreover, the Division is mindful of the cost of proceeding to hearing and seeks to minimize any potential delays in moving cases through the system. This ensures that individuals, small businesses, and major corporations reduce the cost, time, and opportunity lost through judicial delay. By helping matters move through the Division in an expeditious manner, the cost of litigation is reduced and the time lost in the pursuit of a remedy is reduced. Through the elimination of programs that are not cost-effective, the elimination of personnel no longer needed in the face of improved technology, promoting alternative dispute resolution short of hearing, the encouragement toward agencies to take advantage of the summary hearing process, and the increase in the number of non-state agencies contracting for the Division's services, the Division contributes to the goal of efficient government. To conclude, our number one concern is to ensure that all who appear before the Division are afforded due process in a fair and impartial setting, before a judge who treats them with respect and has a thorough understanding of the law to be applied in the matter at hand. We shall accomplish this without sacrificing quality and fairness in the Adjudication of Disputes program, and shall accomplish our goals without requesting additional funding from the Legislature, except in extraordinary circumstances.

Respectfully submitted,



ROBERT S. COHEN
Director and Chief Judge

RSC/ljs

6/30/2016

Appendix 1

HEARING HOURS HELD REPORT
FY 2015-2016
For the Period 07/01/15 through 6/30/2016

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	PRORATED AMOUNT OF FY 2017-18 LBR
AGR	1.75	3.50	39.00	44.25	1.02365%	\$75,039
AHCA	10.75	13.25	570.00	594.00	13.74125%	\$1,007,300
APD	2.25	1.25	81.00	84.50	1.95477%	\$143,294
CIT	0.00	0.00	0.00	0.00	0.00000%	\$0
COR	0.00	1.25	0.00	1.25	0.02892%	\$2,120
DBPR	3.75	3.50	127.25	134.50	3.11145%	\$228,084
DCF	6.50	1.50	307.75	315.75	7.30438%	\$535,446
DEO	2.75	0.00	36.50	39.25	0.90799%	\$66,560
DEP	1.25	1.25	58.50	61.00	1.41114%	\$103,443
DFS	8.00	7.75	216.50	232.25	5.37274%	\$393,848
DIA	0.00	0.00	0.00	0.00	0.00000%	\$0
DLE	0.25	0.00	16.25	16.50	0.38170%	\$27,981
DMA	0.00	0.00	0.00	0.00	0.00000%	\$0
DMS	7.00	5.75	352.25	365.00	8.44370%	\$618,964
DOE	3.00	3.75	119.75	126.50	2.92638%	\$214,518
DOH	11.75	13.00	206.75	231.50	5.35539%	\$392,576
DOS	0.00	0.00	0.00	0.00	0.00000%	\$0
DOT	4.00	0.75	66.75	71.50	1.65404%	\$121,249
ELDER	0.00	0.00	0.00	0.00	0.00000%	\$0
ETH	0.00	0.50	12.50	13.00	0.30073%	\$22,045
FEC	0.50	0.00	2.50	3.00	0.06940%	\$5,087
FWCC	0.00	0.00	22.00	22.00	0.50894%	\$37,307
GOV	0.00	0.25	11.50	11.75	0.27182%	\$19,926
HSM	1.50	8.75	3.50	13.75	0.31808%	\$23,317
JUV	0.00	0.00	0.00	0.00	0.00000%	\$0
LOT	0.00	0.00	0.00	0.00	0.00000%	\$0
PSC	0.00	0.00	0.00	0.00	0.00000%	\$0
REV	2.00	1.75	1937.75	1941.50	44.91354%	\$3,292,379
VET	0.00	0.00	0.00	0.00	0.00000%	\$0
TOTAL:	67.00	67.75	4188.00	4322.75	100.00000%	\$7,330,483

NOTE: Hearing hours held in contract cases (water management districts, regional planning councils, cities, counties, school district/educational entity cases, etc.), NICA cases, and other miscellaneous cases are reported separately.

*Prior to prorating among state agencies, DOAH's FY 2017-18 Legislative Budget Request totaling \$8,436,480 was adjusted to reflect estimated revenue of \$532,970 from contract entities, payment of \$657,725 from the Workers' Compensation Appeals Program for general management and administrative services costs, estimated revenue of \$16,400 from cases filed pursuant to Chapter 403, Florida Statutes, and the estimated nonoperating cost of \$101,098 for state agency video teleconferencing hearings.

6/30/2016

Appendix 1

HEARING HOURS HELD BY CONTRACT/EDUCATIONAL/OTHER AGENCIES FY 2015-2016

For the Period 07/01/15 through 6/30/16

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF HOURS ALL AGENCIES
CONTRACT					
EPP	5.00	5.00	220.25	230.25	4.30797%
TL	0.00	0.00	19.00	19.00	0.35549%
GM	0.00	0.00	0.00	0.00	0.00000%
MA	0.25	0.00	44.50	44.75	1.03522%
NICA	0.00	2.25	89.75	92.00	1.72132%
OTHER	0.50	1.00	6.00	7.50	0.14032%
SENATE CLAIM	1.25	1.50	21.75	24.50	0.45839%
SCHBDS	0.00	0.00	0.00	0.00	0.00000%
	27.25	7.50	569.25	604.00	11.30081%
TOTAL:	34.25	17.25	970.50	1022.00	19.12157%

CONTRACT: Water Management Districts, Regional Planning Councils, Cities, Counties, etc., as specified in § 120.65(9), Fla. Stat.

EPP: Electrical Power Plant siting cases filed by DEP, pursuant to Ch. 403, Fla. Stat.

TL: Transmission line siting cases filed by DEP, pursuant to Ch. 403, Fla. Stat.

GM: Growth Management cases filed by individuals, pursuant to § 163.3184(5), Fla. Stat.

MA: Medical Arbitration

NICA: Florida Birth-Related Neurological Injury Compensation Association

OTHER: Noncontract entities such as Victims of Wrongful Incarceration Compensation Act

SENATE CLAIM BILLS: Excess judgment claims and equitable claims, pursuant to Senate Rules 4.81

SCHBDS: School boards and other educational entities specified in § 120.65(9), Fla. Stat.

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2015 - 2016

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	5	6	11
Bureau of License and Bond	0	5	5
Division of Consumer Services	2	0	2
Division of Licensing	2	1	3
Agency Total	9	12	21
Agency for Persons with Disabilities			
Agency for Persons with Disabilities	7	14	21
General Revenue	3	0	3
License	5	5	10
Agency Total	15	19	34
Department of Children and Family Services			
Department of Children and Family Services	0	1	1
Exemption Ch. 435, position of special trust	30	17	47
Family Safety and Preservation Programs	47	37	84
Office of Licensure and Certification	2	2	4
Non-Baker Act Total	79	57	136
Contract Hearings			
Bay County Board of County Commissioners	0	1	1
City of Cape Coral	0	2	2
City of Clearwater	3	1	4
City of Coral Springs Police Officers' Pension Fun	0	2	2
Code Enforcement	1	1	2
Emerald Coast Utilities Authority	1	0	1
Informal Hearing	0	2	2
Leon County	0	2	2
Monroe County	0	2	2
Pinellas County	3	0	3
Agency Total	8	13	21
Florida Commission on Human Relations			
Florida Commission on Human Relations	38	55	93
Fair Housing Act	11	10	21
Agency Total	49	65	114
Department of Corrections			
Department of Corrections	0	3	3
Agency Total	0	3	3
County School Boards			
Alachua County School Board	2	1	3
Bay County School Board	0	1	1
Brevard County School Board	4	1	5
Broward County School Board	14	28	42
Charlotte County School Board	2	0	2
Citrus County School Board	0	2	2
Collier County School Board	0	2	2
Columbia County School Board	1	1	2
Miami-Dade County School Board	18	32	50
DeSoto County School Board	4	0	4
Duval County School Board	10	8	18

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2015 - 2016

AGENCY	Jul-Dec	Jan-June	TOTAL
Escambia County School Board	1	1	2
Gilchrist County School Board	0	1	1
Hernando County School Board	1	0	1
Highlands County School Board	3	0	3
Hillsborough County School Board	5	2	7
Holmes County School Board	0	1	1
Indian River County School Board	0	2	2
Lake County School Board	1	4	5
Lee County School Board	4	6	10
Leon County School Board	1	1	2
Manatee County School Board	0	3	3
Marion County School Board	2	0	2
Martin County School Board	1	0	1
Monroe County School Board	1	1	2
Okaloosa County School Board	1	0	1
Orange County School Board	3	16	19
Osceola County School Board	1	0	1
Palm Beach County School Board	8	16	24
Section 504 cases	4	2	6
Pasco County School Board	3	2	5
Pinellas County School Board	1	2	3
Polk County School Board	5	3	8
St Johns County School Board	2	2	4
St Lucie County School Board	5	1	6
Sarasota County School Board	4	3	7
Seminole County School Board	4	15	19
Sumter County School Board	1	0	1
Taylor County School Board	0	4	4
Volusia County School Board	1	3	4
Charter Schools Non-renewal or Terminating	0	4	4
Agency Total	118	171	289
Department of Community Affairs			
Small Scale Comprehensive Plan Amendment	1	0	1
Agency Total	1	0	1
Division of Emergency Management			
Division of Emergency Management	1	0	1
Agency Total	1	0	1
Department of Economic Opportunity			
Department of Economic Opportunity	6	6	12
Agency Total	6	6	12
Department of Environmental Protection			
Department of Environmental Protection	8	11	19
Agency Total	8	11	19
Department of Financial Services			
Department of Financial Services	4	7	11
Division of Insurance Agent and Agency Services	10	4	14
Division of Unclaimed Property	1	1	2
Division of State Fire Marshal	2	0	2
Division of Funeral, Cemetery, and Consumer Services	5	2	7
Division of Workers` Compensation	172	156	328

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2015 - 2016

AGENCY	Jul-Dec	Jan-June	TOTAL
Agency Total	194	170	364
Department of Health			
Department of Health	17	12	29
Board of Chiropractic	0	3	3
Board of Clinical Social Work, Marriage and Family	0	1	1
Division of Children's Medical Services	1	0	1
Board of Dentistry	1	0	1
Environmental Health	1	1	2
Board of Hearing Aid Specialists	2	0	2
Board of Medicine	9	18	27
Memorandum of Agreement	0	1	1
Board of Nursing	17	9	26
Board of Osteopathic Medicine	0	1	1
Board of Pharmacy	3	1	4
Agency Total	51	47	98
Department of Juvenile Justice			
Department of Juvenile Justice	1	3	4
Agency Total	1	3	4
Department of Law Enforcement			
Department of Law Enforcement	0	1	1
Criminal Justice Standards and Training Commission	2	1	3
Agency Total	2	2	4
Department of Management Services			
Department of Management Services	1	1	2
Division of State Group Insurance	8	9	17
Division of Retirement	3	5	8
Agency Total	12	15	27
Department of Education			
Department of Education	2	0	2
Division of Blind Services	1	0	1
Charter Schools Operation	0	1	1
Confidential Vocational Rehabilitation Cases	5	6	11
Education Practices Commission	66	75	141
State Board of Education	0	1	1
Vocational Rehabilitation Services	6	2	8
Agency Total	80	85	165
Department of Offender Rehabilitation			
Department of Offender Rehabilitation	0	1	1
Agency Total	0	1	1
Department of Transportation			
Department of Transportation	20	10	30
Agency Total	20	10	30
Department of Business and Professional Regulation			
Board of Accountancy	5	4	9
Board of Architecture	3	0	3
Building Code Administrators and Inspectors	2	2	4

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2015 - 2016

AGENCY	Jul-Dec	Jan-June	TOTAL
Construction Industry Licensing Board	12	6	18
Board of Cosmetology	0	1	1
Division of Alcoholic Beverages and Tobacco	17	21	38
Division of Drugs, Devices, and Cosmetics	2	5	7
Division of Real Estate	1	0	1
Florida Real Estate Appraisal Board	1	1	2
Florida Real Estate Commission	1	6	7
Home Inspectors Licensing Program	1	0	1
Division of Hotels and Restaurants	11	11	22
Division of Land Sales, Condominiums, and Mobile H	3	2	5
Non-licensed Respondent	4	9	13
Division of Pari-Mutuel Wagering	23	16	39
Board of Professional Engineers	4	2	6
Board of Veterinary Medicine	1	0	1
Agency Total	91	86	177
Florida Commission on Ethics			
Florida Commission on Ethics	1	6	7
Agency Total	1	6	7
Florida Elections Commission			
Florida Elections Commission	4	1	5
Agency Total	4	1	5
Florida Housing Finance Corporation			
Florida Housing Finance Corporation	0	4	4
Agency Total	0	4	4
Florida Parole Commission			
Florida Parole Commission	1	0	1
Agency Total	1	0	1
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	7	3	10
Agency Total	7	3	10
Growth Management (No Agency)			
Growth Management (No Agency)	6	6	12
Agency Total	6	6	12
Office of the Governor			
Florida Land and Water Adjudicatory Commission	1	0	1
Florida Land and Water Adjudicatory Commission, Co	1	0	1
Agency Total	2	0	2
Agency for Health Care Administration			
Agency for Health Care Administration	21	20	41
Audit Quality Control Services	14	3	17
Office of Certificate of Need	15	7	22
Medicaid Cost Reimbursement	7	1	8
Medicaid Program Integrity	17	24	41
Office of Licensure and Certification	66	53	119
Agency Total	140	108	248

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2015 - 2016

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	3	7	10
Section 320.642	10	4	14
Agency Total	13	11	24
Medical Arbitration			
Medical Arbitration	6	8	14
Agency Total	6	8	14
No Agency			
Construction Mining	4	1	5
Agency Total	4	1	5
Florida Birth-Related Neurological Injury Compensation			
Florida Birth-Related Neurological Injury Compensa	14	22	36
Agency Total	14	22	36
Office of Financial Regulation			
Office of Financial Regulation	11	13	24
Agency Total	11	13	24
Office of Insurance Regulation			
Office of Insurance Regulation	3	5	8
Agency Total	3	5	8
Department of Revenue			
Department of Revenue	41	23	64
Child Support Enforcement Program	1,642	1,772	3,414
Agency Total	1,683	1,795	3,478
State Board of Administration			
State Board of Administration	2	4	6
Agency Total	2	4	6
Self-contained Agencies			
Pinellas County Construction Licensing Board	3	0	3
Agency Total	3	0	3
Universities and Colleges			
Florida A & M University	0	1	1
Miami-Dade Community College	1	0	1
Agency Total	1	1	2
Water Management Districts			
South Florida Water Management District	4	2	6
St. Johns River Water Management District	0	2	2
Suwannee River Water Management District	2	0	2
Southwest Florida Water Management District	1	1	2
Agency Total	7	5	12
NON BAKER ACT TOTAL	2,653	2,769	5,422

Division of Administrative Hearings

ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2015 - 2016

AGENCY	Jul-Dec	Jan-June	TOTAL
Baker Acts			
Correct Care Recovery Solutions	281	249	530
Correct Care Recovery Solutions Arcadia	1	2	3
Department of Veterans Affairs	2	3	5
Florida State Hospital	227	228	455
Florida Women's Reception Center	2	0	2
Lake Correctional Institution	32	19	51
Life Management Center of Northwest Florida	1	1	2
Meridian Behavioral Healthcare, Inc.	0	1	1
North Tampa Behavioral Health	1	0	1
Northeast Florida State Hospital	328	414	742
Peace River Center	7	0	7
Shands at Vista	0	2	2
West Florida Community Care Center	35	35	70
Baker Act Total	917	954	1,871

SUMMARY

Division of Administrative Hearings
 Actual, Estimated and Requested Expenditures
 (Operating Trust Fund unless otherwise noted)

Adjudication of Disputes

<u>Appropriation Category</u>	Actual Expenditures <u>FY 2015-16</u>	Estimated Expenditures <u>FY 2016-17</u>	Requested Expenditures <u>FY 2017-18</u>
Salaries and Benefits	\$7,069,240	\$7,037,737	\$7,063,938
Other Personal Services	\$730	\$18,082	\$18,082
Expenses	\$952,574	\$1,025,647	\$1,025,647
Operating Capital Outlay	\$46,800	\$65,000	\$65,000
Special Categories			
Contracted Services (GR)	\$0	\$6,286	\$0
Contracted Services	\$182,034	\$185,495	\$185,495
Contracted Legal Svcs.	\$390	\$1,000	\$1,000
Risk Mgmt. Ins.	\$18,850	\$25,115	\$25,115
Lease/Purch/Equip	\$15,725	\$31,500	\$31,500
TR/DMS/HR SVCS	<u>\$21,332</u>	<u>\$20,718</u>	<u>\$20,703</u>
Total Program Budget	<u>\$8,307,675</u>	<u>\$8,416,580</u>	<u>\$8,436,480</u>
Total Program Positions	65	65	65

Workers' Compensation Appeals

<u>Appropriation Category</u>	Actual Expenditures <u>FY 2015-16</u>	Estimated Expenditures <u>FY 2016-17</u>	Requested Expenditures <u>FY 2017-18</u>
Salaries and Benefits	\$13,248,372	\$13,594,661	\$13,667,864
Other Personal Services	\$13,376	\$17,836	\$17,836
Expenses	\$2,700,498	\$2,695,842	\$2,695,842
Operating Capital Outlay	\$154,870	\$64,916	\$64,916
Special Categories			
Contracted Services	\$943,116	\$1,023,324	\$1,023,324
Contracted Legal Svcs.	\$12,270	\$1,279	\$1,279
Tenant Broker Commissions	\$12,912	\$0	\$0
Risk Mgmt. Ins.	\$72,286	\$64,019	\$64,019
Lease/Purchase/Equip	\$5,397	\$44,000	\$44,000
TR/DMS/HR SVCS	<u>\$62,148</u>	<u>\$60,359</u>	<u>\$60,316</u>
Total Program Budget	<u>\$17,225,245</u>	<u>\$17,566,236</u>	<u>\$17,639,396</u>
Total Program Positions	176	176	176

TOTAL DIVISION BUDGET	<u>\$25,532,920</u>	<u>\$25,982,816</u>	<u>\$26,075,876</u>
TOTAL DIVISION POSITIONS	241	241	241

2017 DOAH ANNUAL REPORT

#: 44

PERIOD: *July 1, 2016 - June 30, 2017*

DATE: January 31, 2018

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Robert S. Cohen, Chief Judge

PAGES: 25

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2017



STATE OF FLORIDA

DIVISION OF ADMINISTRATIVE HEARINGS



January 31, 2018

FORTY-FOURTH ANNUAL REPORT

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**DIVISION OF ADMINISTRATIVE HEARINGS
FORTY - FOURTH ANNUAL REPORT**

INTRODUCTION

This report is submitted to the Joint Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of section 120.65(8), Florida Statutes, which provides:

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.
- (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).

GENERAL

The Division of Administrative Hearings (Division) administers two programs. One, which is the subject of this report, is the Adjudication of Disputes program that operates pursuant to chapter 120. The other is the Workers' Compensation Appeals program, Office of the Judges of Compensation Claims (OJCC), which operates pursuant to chapter 440, Florida Statutes. Section 440.45(5) requires the OJCC to issue an annual report to the Governor, the House of Representatives, the Senate, The Florida Bar, and the statewide nominating commission. The OJCC annual report was submitted. Accordingly, the present report will focus primarily on the Adjudication of Disputes program. However, because the headquarters element of the Division

**DIVISION OF ADMINISTRATIVE HEARINGS
FORTY - FOURTH ANNUAL REPORT**

must support both programs, this report necessarily must include some information addressing the OJCC.

The Clerk's Office at the Division is constantly seeking ways to make the electronic filing and service of pleadings more streamlined and user-friendly. Additionally, the availability of the online dockets and the indexing of final orders performed by the Division for all state agencies is an area where improvements can be made in search engine capabilities and improvement of access of the orders to the public. The Clerk's Office has continued to update e-filing instructions on its website as e-filing evolves. Also in FY 2017-18, the Clerk's Office, in conjunction with the information technology (IT) staff, will continue testing to enhance the case search to include locating documents within dockets for non-confidential cases giving greater access to the Division's database. Also, eService will expand to include links to Administrative Law Judge rulings, along with the motions and/or responses.

UTILIZATION RATES

Appendix 1 breaks out by agency the utilization rates of Division resources and demonstrates, in descending order, that 12 agencies utilized 79 percent of the Division's docket: the Department of Revenue, the Agency for Health Care Administration, the Department of Management Services, the Department of Health, the Department of Education, Department of Children and Families, the Department of Financial Services, the Department of Transportation, the Department of Business and Professional Regulation, the Agency for Persons with Disabilities, the Florida Commission on Ethics, and the Department of Environmental Protection. Additionally, entities such as water management districts, cities, counties, school districts, and other educational entities, are significant users of the Division's services and are reported separately since they are covered by contractual agreements.

**DIVISION OF ADMINISTRATIVE HEARINGS
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During FY 2016-17, state agencies and other governmental entities referred 7,691 requests for assignment of an administrative law judge compared to 7,293 requests filed the previous year. This is a six-percent increase from the previous fiscal year. Requests for assignment of Administrative Law Judges from the following six agencies constitute 55 percent of our fiscal year caseload: the Department of Environmental Protection (38 cases, an increase of 100 percent over the 19 cases filed in FY 2015-16); the Department of Health (124 cases, an increase of 27 percent over the 98 cases filed in FY 2015-16); the Department of Highway Safety and Motor Vehicles (73 cases, an increase of 204 percent over the 24 cases filed in FY 2015-16); the Department of Revenue (3,827 cases, an increase of 10 percent over the 3,478 cases filed in FY 2015-16); the Florida Commission on Ethics (12 cases, an increase of 71 percent over the seven cases filed in FY 2015-16); and the Florida Commission on Human Relations (166 cases, an increase of 46 percent over the 114 cases filed in FY 2015-16).

UTILIZATION OF PERSONNEL

As of June 30, 2017, the Adjudication of Disputes program had 65 established positions consisting of the Director and Chief Judge, the Deputy Chief Judge, 31 Administrative Law Judges, seven Administrative Secretaries, five Administrative Assistants, one Budget Officer, one Executive Assistant, two Staff Assistants, one Administrative Services Director, one Personnel Officer, one Purchasing Specialist, one Professional Accountant Specialist, one Operations and Management Consultant, one Accountant, one Database Administrator, one Distributed Computer Systems Analyst, one Systems Programmer, one Clerk of the Division, two Commission Deputy Clerks, two Deputy Clerks, and two Senior Clerks. With one Administrative Secretary or Administrative Assistant assigned to three judges, this

**DIVISION OF ADMINISTRATIVE HEARINGS
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represents a highly efficient model for the adjudicatory process. Our judges utilize a minimum of administrative personnel to perform their assigned tasks.

The Workers' Compensation Appeals program had 176 established positions consisting of one Deputy Chief Judge of Compensation Claims, 31 Judges of Compensation Claims, 28 Senior Attorneys/State Mediators, 35 Deputy Clerks (includes 31 in the field offices and four in the central Clerk's Office), one Office Operations Manager, 38 Commission Deputy Clerks (includes 31 in the field offices and seven in the central Clerk's Office), five Administrative Assistants, 29 Administrative Secretaries, one Secretary Specialist, one Staff Assistant, one Accountant, one Court Reporter, one Distributed Computer Systems Administrator, two Distributed Computer Systems Analyst, and one Attorney. In an extremely high-volume area of the law and in recognition of the economic downturn, the program constantly seeks ways to combine staff positions and responsibilities in the interest of cost savings.

HEARING REQUESTS

During FY 2016-17, the Division processed 7,691 hearing requests compared to 7,293 cases filed the previous fiscal year. Of the total cases filed, 1,976 were Baker Act cases. The remaining 5,715 cases were primarily filed pursuant to sections 120.56, 120.569, and 120.57(1). Most notable were the referrals from the Department of Revenue, which increased its referrals by ten percent with 3,827 cases filed this fiscal year compared to 3,478 cases previously reported. Other cases filed are itemized by agency in the attached Appendix 2.

In FY 2016-17, each Administrative Law Judge conducted an average of 216 hearings (a 16-percent increase) and wrote an average of 116 Recommended or Final Orders (a 17-percent increase) of varying length and complexity. In addition, each Judge closed an average of

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62 cases, which were settled or otherwise dismissed without a final hearing. The case closure data does not include Baker Act closures.

INFORMATION TECHNOLOGY

The Division maintains two mission-critical databases and applications: the DOAH Case Management System (CMS) and the OJCC Case Management System (JCCa). Associated applications include full-text retrieval and document indexing of orders issued by the Division's Administrative Law Judges and Judges of Compensation Claims. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include office automation (word processing and e-mail) and online legal research via LexisNexis and other Internet resources.

Electronic Filing

During calendar year 2017, there were 59,144 documents uploaded via the eALJ filing portal; 38,565 documents were served (via email) to 136,392 parties of record. For the OJCC, 577,220 documents were uploaded via the eJCC filing portal; 731,574 documents were electronically served to 1,677,921 parties of record.

Indexing

Under section 120.53(2), all state agencies shall electronically transmit their agency final orders to the Division's website for indexing purposes, effective July 1, 2015. To date, a total of 134,723 documents have been submitted to the Agency Index Documents database, with 24,810 of those uploaded in calendar year 2017.

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Cybersecurity

The Division has long been concerned with the integrity of its IT systems. This concern has grown out of a responsibility we feel to those whose private information is transmitted to our care through electronic means; to appropriate walls being developed to keep that private information away from all but those who are entitled to view it; and to appropriate measures being taken to ensure that the users of the Division's systems do not accidentally release confidential information to those not entitled to it or to infecting the IT systems with malware or other intrusions from outside entities that are not authorized to view confidential or proprietary information. In 2017, the Division's primary IT focus continued to be on security.

Cybersecurity awareness training provided to all Division personnel was focused on safe mobile computing and learning to recognize malicious emails. Special training sessions were also provided to judges and mediators throughout the year. We will continue to comply with all state laws and rules that may be developed, as well as our internally produced protocols to ensure the Division's IT systems are secure from both external and internal attack.

OPERATING BUDGET

The Division is 100 percent trust funded. However, in FY 2016-17, the Division received \$6,286 in non-recurring General Revenue per Specific Appropriation 1961B to obtain security training for the IT staff. Appendix 3 summarizes the actual, estimated, and requested expenditures for the Division's programs for FY 2016-17, FY 2017-18, and FY 2018-19, respectively.

For the Adjudication of Disputes program, each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours conducted by its judges for all agencies. Based on this data, the Division's budget is prorated among the state agencies

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utilizing its services, and the Legislature appropriates fund transfers to the Division from those agencies. Hence, the amount each agency transfers to the Division is based on the amount of time the judges spend in pre-hearing conferences, motion hearings, and final hearings for each agency in a given year. Beginning in FY 2003-04, data on cancelled and continued hearings were excluded from the report under the theory that the agencies should not be penalized for accomplishing the resolution of disputes short of proceeding to hearing. In September 2017, the Division submitted its thirty-first "Hearing Hours Held" report (see Appendix 1). In FY 2016-17, a total of 5,009 hearing hours were held. (Appendix 1 excludes Baker Act hearing hours, which totaled 313.50 in FY 2016-17.)

The Division also is authorized to enter into contracts with non-state entities, such as cities, counties, regional planning councils, water management districts, school districts, and other educational entities for the provision of Administrative Law Judge services. When needed, the Division also enters into a contract with the Florida Legislature to hear all Florida Senate claim bills that require a hearing before a Special Master. Contract organizations reimburse the Division for the costs of its services at a rate that is based on a total-cost-recovery methodology. The current contract rate is \$151 an hour, a most reasonable rate for adjudicatory services by experienced lawyer-judges.

The Division has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to non-state entities. This has been accomplished by revising each year the hourly rate that is paid by the non-state entities for Administrative Law Judge services, by marketing the Division's services to attract new non-state entities, and by backing out these revenues before the budget is prorated among the state

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agencies. The assessment for administrative support that is paid by the Workers' Compensation Appeals program also is backed out before the budget is prorated. Hence, state agency transfers have been reduced by about \$1.1 million in the Division's FY 2018-19 Legislative Budget Request. In the coming year, the Director and other members of the Division's staff will continue their efforts to solicit new contractual business from local government entities to further offset the cost of supporting the Division that is borne by our state agencies.

The Workers' Compensation Appeals program is supported by cash transfers from the Workers' Compensation Administration Trust Fund that is administered by the Department of Financial Services. This trust fund is funded through a workers' compensation premium tax assessment which supports the entire workers' compensation program, not only the appeals program administered by the Division.

RECOMMENDATIONS CONCERNING THE A.P.A.

The Division closely follows judicial decisions concerning the application and interpretation of the Administrative Procedure Act (A.P.A.). The Division clearly recognizes that it must remain fair and impartial in all matters affecting the agencies and private parties that come before it for adjudication of their disputes. However, pursuant to its statutory mandate in section 120.65(8)(b), the Division is required to make recommendations for changes or improvements in the A.P.A. "or any agency's practice or policy with respect thereto." Over the past several years, this report has contained a discussion of how the Division can help those agencies housing professional licensing boards (the Department of Business and Professional Regulation and the Department of Health). Although these agencies have not chosen to avail themselves of our offer, we remain willing and able to create dockets to handle minor violations involving fines and compliance only (as opposed to suspension or revocation of licenses) to

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allow the professional licensing boards, comprised of volunteers who often meet on weekends away from their homes, to lighten their loads to allow them to concentrate on the more severe cases that come before them. As stated previously, section 120.65 was amended in 2006 to require the Division to include recommendations as to the types of cases that should be conducted under the summary hearing process described in section 120.574. § 120.65(8)(c), Fla. Stat. Finally, section 120.65 was amended to require the Division's report to include information regarding each agency's compliance with the filing requirement in section 120.57(1)(m). We believe these “minor violation” matters are exactly what were contemplated by the summary hearing procedure, and sending a portion or all of these matters to the Division would save the agencies, housing these boards, time and resources. The Division could handle these additional summary matters with its current complement of judges and support staff.

At the time of the issuance of this report, a handful of bills have been filed in the Legislature for the 2018 Session that relate to the rulemaking process. As in the past, the Division is working with the Legislature and proponents or opponents of any proposed legislation affecting administrative practice to ensure that the goals of due process and the efficient adjudication of disputes are maintained. This is generally done through the bill analysis process in which staff members ask whether fiscal and policy impacts might result from the passage of proposed legislation. It is the practice of the Division to respond timely to any such requests and to inform the Legislature that proposed statutory changes to improve the efficiency of the administrative process and to increase the caseload at the Division are welcome. The Division also consults with the Administrative Law Section of The Florida Bar to ensure consistency of our position with those who routinely practice in the administrative law arena. The undersigned and any other necessary staff of the Division will cooperate fully with

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Legislative and Executive branch requests regarding these or any other proposed procedural and substantive changes to chapter 120, or any statutes related to the adjudication of disputes in the administrative forum. We shall testify before legislative committees, meet with members of the Legislature, or confer with stakeholders, as requested, to provide information and insights into how proposed changes might affect the Division and the cases we hear.

As noted above, the Division has experienced immense growth in the use of filing of pleadings, orders, and other documents by electronic means since mandatory electronic filing has become the law. Under this system, registered users of the electronic filing program continue to realize the efficiencies and savings afforded by not using the mail, both regular and overnight, courier services to file papers with the Division, copying charges and materials, and staff time to carry out each of these functions. Since the system is mandatory, not only has the Division saved costs, but the users of the system have realized great savings in time, effort, and the cost of materials and staff. Moreover, electronic filing has allowed all filed pleadings to be made available immediately on the Division's website for use by the public, thereby adding to the transparency of the work performed by the Division. Notably, it is anticipated that legislation will pass during the 2018 Session to formally allow the Division to electronically serve all pleadings and orders on the registered parties in our cases. The service is already being provided as a DOAH initiative. This will eliminate any costs associated with attorneys serving pleadings and documents on opposing counsel or parties, if self-represented. Further, this mandate will eliminate any disputes between attorneys and parties concerning whether they were actually served with papers filed at the Division. The Workers' Compensation Appeals program has already instituted e-service of all pleadings and papers filed, which has resulted in additional cost savings for those who conduct business with the Division. Realizing that not everyone has

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access to a computer, the legislation carved out an exception to the requirement of electronic filing for those unable to gain reasonable access to a computer for filing documents. Many self-represented litigants have chosen to use the electronic filing system, even though not required to by law, since they have realized the value of a no-cost way of filing their papers and pleadings.

Since 2009, the Division has offered video-teleconferencing capabilities in each of its 17 district offices around the state, as well as in the central offices in Tallahassee. As the Division has absorbed annual budget cuts, this capability has resulted in significant savings in costs and time, since the judges assigned to cases outside of Tallahassee are able to conduct many hearings via video, allowing them to maximize their office time to more timely issue the highly detailed orders that are required in administrative hearings. The video-teleconferencing technology has developed to the point where many attorneys prefer its use to the live hearing, since multiple sites may be linked for a single hearing, allowing, for example, the judge and agency representatives to be in Tallahassee, the party involved in the hearing to be in Ft. Lauderdale, and perhaps even a witness to appear in Orlando, rather than having everyone travel to one location. The Workers' Compensation Appeals program has further utilized video teleconferencing to allow judges in districts that have experienced a downturn in the number of cases filed to alleviate some of the backlog in those districts still experiencing high volume. This also allows the JCCs to move cases more quickly through the system through the use of an available judge rather than waiting for a judge with an overload of cases to become free. The use of video teleconferencing saves the cost of these judges traveling across the state and still provides a high-quality means of hearing the cases in a timely fashion. In addition to the use of video teleconferencing for hearings, video teleconferencing has become an invaluable training

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tool, allowing us to connect multiple cities to our trainers in Tallahassee, rather than sending people on the road to perform in-service training.

Pursuant to the requirement contained in section 120.65(8)(d), many agencies have improved the timeliness of filing their final orders with the Division. In this past fiscal year, 14 of the 33 reported agencies employing the services of the Division have completely or substantially complied with the 15-day filing requirement (Agency for Health Care Administration, Agency for Persons with Disabilities, Contract Hearings, County School Boards, Department of Agriculture and Consumer Services, Department of Business and Professional Regulation, Department of Corrections, Department of Juvenile Justice, Department of Transportation, Florida Commission on Ethics, Florida Commission on Human Relations, State Board of Administration, Universities and Colleges, and Water Management Districts). Overall, of the agency final orders filed with the Division between July 1, 2016, and June 30, 2017, 29 percent were filed within 15 days of entry by the agency. The Division once again intends to remind the agencies of the statutory requirement to timely file their final orders. Filing these final orders electronically makes the task a simple one for the agencies.

Finally, in 2015, the Administrative Law Section was successful in having legislation passed to require all agencies to file their final orders with the Division for indexing and retrieval. The Legislature designated the Division as the centralized electronic database for indexing agency final orders pursuant to section 120.53. All agencies now electronically transmit a certified text-searchable copy of each agency final order as described in section 120.53(2), which was rendered on or after the effective date. Also, the agencies may electronically transmit certified copies of all of the final orders, which were required to be in the subject matter index and rendered prior to July 1, 2015, for the Division to keep and make those

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orders available to the public in a searchable database. Thirty-one agencies (Executive Office of the Governor, Department of Agriculture and Consumer Services, Department of Financial Services, Office of Financial Regulation, Office of Insurance Regulation, Agency for Health Care Administration, Agency for Persons with Disabilities, Department of Business and Professional Regulation, Department of Children and Families, Department of Corrections, Commission on Offender Review, Department of Economic Opportunity, Department of Community Affairs (prior to DEO), Florida Housing Finance Corporation, Department of Education, Department of Environmental Protection, Department of Health, Department of Highway Safety and Motor Vehicles, Department of Law Enforcement, Department of Management Services, Department of State, Florida Elections Commission, Florida Commission on Ethics, Public Employee Relations Commission, Public Service Commission, County School Boards, Department of Lottery, Department of Transportation, State Board of Administration, Department of Revenue, and the Water Management Districts) have already taken advantage of this service.

CONCLUSION

The Division continues to supply timely, high-quality adjudication of disputes pursuant to chapter 120, the Administrative Procedure Act. The Division constantly seeks ways to make the process more affordable to state agencies and citizens, and continues to expand its base to counties, cities, and other users of its program in order to reduce the cost of providing services. In the coming year, the Division will continue to focus its efforts on improved technology in order to streamline the electronic filing of all matters before it, as well as to improve access to the public for research, order preparation, and archiving. The Division strives to meet the performance standards required by the Legislature and the undersigned takes those a step further

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by striving to meet the performance standards now reviewed by the Governor and Cabinet sitting as the Administration Commission. Moreover, the Division is mindful of the cost of proceeding to hearing and seeks to minimize any potential delays in moving cases through the system. This ensures that individuals, small businesses, and major corporations reduce the cost, time, and opportunity lost through judicial delay. By helping matters move through the Division in an expeditious manner, the cost of litigation is reduced and the time lost in the pursuit of a remedy is reduced. Through the elimination of programs that are not cost-effective, the elimination of personnel no longer needed in the face of improved technology, promoting alternative dispute resolution short of hearing, the encouragement toward agencies to take advantage of the summary hearing process, and the increase in the number of non-state agencies contracting for the Division's services, the Division contributes to the goal of efficient government. To conclude, our number one concern is to ensure that all who appear before the Division are afforded due process in a fair and impartial setting, before a judge who treats them with respect and has a thorough understanding of the law to be applied in the matter at hand. We shall accomplish this without sacrificing quality and fairness in the Adjudication of Disputes program, and shall accomplish our goals without requesting additional funding from the Legislature, except in extraordinary circumstances.

Respectfully submitted,



ROBERT S. COHEN
Director and Chief Judge

RSC/ljs

6/30/2017

Appendix 1

HEARING HOURS HELD REPORT
FY 2016-2017
For the Period 07/01/16 through 6/30/2017

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	PRORATED AMOUNT OF FY 2018-19 LBR
AGR	0.25	0.25	13.00	13.50	0.33549%	\$24,809
AHCA	6.75	12.25	366.50	385.50	9.58002%	\$708,422
APD	0.50	0.25	53.75	54.50	1.35437%	\$100,153
CIT	0.00	0.00	0.00	0.00	0.00000%	\$0
COR	0.25	0.00	6.25	6.50	0.16153%	\$11,945
DBPR	3.00	2.50	56.50	62.00	1.54076%	\$113,936
DCF	2.00	2.00	127.50	131.50	3.26789%	\$241,654
DEO	3.25	0.00	10.25	13.50	0.33549%	\$24,809
DEP	3.00	0.25	28.25	31.50	0.78280%	\$57,887
DFS	4.25	7.75	105.00	117.00	2.90755%	\$215,007
DLA	0.00	0.00	0.00	0.00	0.00000%	\$0
DLE	0.00	0.00	0.00	0.00	0.00000%	\$0
DMA	0.00	0.00	0.00	0.00	0.00000%	\$0
DMS	17.25	12.75	327.75	357.75	8.89041%	\$657,427
DOE	5.00	5.75	123.50	134.25	3.33623%	\$246,707
DOH	4.75	12.75	313.25	330.75	8.21943%	\$607,810
DOS	0.00	0.25	0.00	0.25	0.00621%	\$459
DOT	1.50	3.00	73.50	78.00	1.93837%	\$143,338
ELDER	0.00	0.00	0.00	0.00	0.00000%	\$0
ETH	0.75	0.25	42.00	43.00	1.06859%	\$79,020
FEC	0.25	0.00	10.00	10.25	0.25472%	\$18,836
FWCC	0.25	0.00	0.00	0.25	0.00621%	\$459
GOV	0.00	0.00	1.00	1.00	0.02485%	\$1,838
HSM	3.75	0.25	3.50	7.50	0.18638%	\$13,783
JUV	0.00	0.00	4.50	4.50	0.11183%	\$8,269
LOT	1.00	0.75	0.00	1.75	0.04349%	\$3,216
PSC	0.00	0.00	0.00	0.00	0.00000%	\$0
REV	0.50	3.00	2235.75	2239.25	55.64737%	\$4,115,005
VET	0.00	0.00	0.00	0.00	0.00000%	\$0
TOTAL:	58.25	64.00	3901.75	4024.00	100.00000%	\$7,394,789

NOTE: Hearing hours held in contract cases (water management districts, regional planning councils, cities, counties, school district/educational entity cases, etc.), NICA cases, and other miscellaneous cases are reported separately.

*Prior to prorating among state agencies, DOAH's FY 2018-19 Legislative Budget Request totaling \$8,535,930 was adjusted to reflect estimated revenue of \$550,083 from contract entities, payment of \$677,393 from the Workers' Compensation Appeals Program for general management and administrative services costs, estimated revenue of \$14,084 from cases filed pursuant to Chapter 403, Florida Statutes, and the estimated nonoperating cost of \$100,419 for state agency video teleconferencing hearings.

6/30/2017		HEARING HOURS HELD BY CONTRACT/EDUCATIONAL/OTHER AGENCIES				Appendix 1
		FY 2016-2017				
		For the Period 07/01/16 through 6/30/17				
AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF HOURS ALL AGENCIES	
CONTRACT						
EPP	8.25	4.25	271.25	283.75	5.66480%	
TL	0.00	0.00	0.00	0.00	0.00000%	
GM	0.00	0.50	35.50	36.00	0.71871%	
MA	0.00	0.25	35.75	36.00	0.71871%	
NICA	0.50	2.25	9.25	12.00	0.23957%	
OTHER	0.00	0.00	27.25	27.25	0.54402%	
SENATE CLAIM	0.00	0.00	0.00	0.00	0.00000%	
SCHBDS	13.50	8.00	568.50	590.00	11.77880%	
TOTAL:	22.25	15.25	947.50	985.00	19.66460%	
CONTRACT: Water Management Districts, Regional Planning Councils, Cities, Counties, etc., as specified in § 120.65(9), Fla. Stat. EPP: Electrical Power Plant siting cases filed by DEP, pursuant to Ch. 403, Fla. Stat. TL: Transmission line siting cases filed by DEP, pursuant to Ch. 403, Fla. Stat. GM: Growth Management cases filed by individuals, pursuant to § 163.3184(5), Fla. Stat. MA: Medical Arbitration NICA: Florida Birth-Related Neurological Injury Compensation Association OTHER: Noncontract entities such as Victims of Wrongful Incarceration Compensation Act SENATE CLAIM BILLS: Excess judgment claims and equitable claims, pursuant to Senate Rules 4.81 SCHBDS: School boards and other educational entities specified in § 120.65(9), Fla. Stat.						

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2016 - 2017

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	7	4	11
Bureau of License and Bond	1	0	1
Agency Total	8	4	12
Agency for Persons with Disabilities			
Agency for Persons with Disabilities	16	15	31
License	1	0	1
Agency Total	17	15	32
Department of Children and Family Services			
Department of Children and Family Services	3	2	5
Exemption Ch. 435, position of special trust	20	20	40
Family Safety and Preservation Programs	25	13	38
Office of Licensure and Certification	3	0	3
Non-Baker Act Total	51	35	86
Contract Hearings			
City of Cape Coral	1	1	2
City of Clearwater	2	0	2
City of Coral Springs Police Officers' Pension Fun	0	1	1
City of Gainesville	1	0	1
Code Enforcement	1	2	3
City of Tampa General Employees Retirement Fund	6	2	8
Emerald Coast Utilities Authority	0	1	1
Hillsborough County	1	0	1
Informal Hearing	5	3	8
Monroe County	0	2	2
Pinellas County Sheriff's Civil Service Board	2	0	2
Pinellas County	1	1	2
Agency Total	20	13	33
Florida Commission on Human Relations			
Florida Commission on Human Relations	74	73	147
Fair Housing Act	8	11	19
Agency Total	82	84	166
Commissions			
Commissions	0	1	1
Agency Total	0	1	1
Department of Corrections			
Department of Corrections	4	1	5
Agency Total	4	1	5
Citizens Property Insurance			
Citizens Property Insurance	1	0	1
Agency Total	1	0	1
County School Boards			
Brevard County School Board	2	4	6
Broward County School Board	12	26	38
Charlotte County School Board	0	2	2
Columbia County School Board	1	0	1

Division of Administrative Hearings

ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2016 - 2017

AGENCY	Jul-Dec	Jan-June	TOTAL
Miami-Dade County School Board	17	20	37
Dixie County School Board	1	0	1
Duval County School Board	7	6	13
Escambia County School Board	3	0	3
Flagler County School Board	0	1	1
Franklin County School Board	0	1	1
Hamilton County School Board	1	0	1
Hernando County School Board	3	2	5
Highlands County School Board	1	1	2
Hillsborough County School Board	5	6	11
Indian River County School Board	1	0	1
Jackson County School Board	3	0	3
Lake County School Board	1	3	4
Lee County School Board	3	2	5
Leon County School Board	2	2	4
Manatee County School Board	3	2	5
Marion County School Board	2	1	3
Martin County School Board	0	1	1
Monroe County School Board	1	1	2
Orange County School Board	6	20	26
Osceola County School Board	0	2	2
Palm Beach County School Board	7	11	18
Section 504 cases	3	0	3
Pasco County School Board	2	4	6
Pinellas County School Board	2	4	6
Polk County School Board	3	4	7
St Johns County School Board	3	5	8
St Lucie County School Board	3	3	6
Sarasota County School Board	0	1	1
Seminole County School Board	3	4	7
Taylor County School Board	0	1	1
Charter Schools Non-renewal or Terminating	2	0	2
School for the Deaf and Blind	0	1	1
Agency Total	103	141	244
Department of Elder Affairs			
Department of Elder Affairs	1	1	2
Agency Total	1	1	2
Department of Economic Opportunity			
Department of Economic Opportunity	4	3	7
Agency Total	4	3	7
Department of Environmental Protection			
Department of Environmental Protection	16	22	38
Agency Total	16	22	38
Department of Financial Services			
Department of Financial Services	3	7	10
Division of Insurance Agent and Agency Services	0	4	4
Division of Unclaimed Property	3	0	3
Division of State Fire Marshal	0	1	1
Division of Workers` Compensation	196	111	307
Agency Total	202	123	325

Division of Administrative Hearings

ANALYSIS OF AGENCY REQUEST FOR
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AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Health			
Department of Health	7	4	11
Board of Chiropractic	1	2	3
Board of Clinical Social Work, Marriage and Family	1	0	1
Board of Dentistry	8	2	10
Environmental Health	2	0	2
Division of Emergency Preparedness and Community S	0	5	5
Board of Medicine	18	16	34
Board of Massage Therapy	7	12	19
Board of Nursing	14	11	25
Board of Optometry	3	2	5
Board of Osteopathic Medicine	0	1	1
Board of Pharmacy	4	0	4
Board of Psychology	1	1	2
Board of Respiratory Therapy	1	1	2
Agency Total	67	57	124
Department of Juvenile Justice			
Department of Juvenile Justice	2	3	5
Agency Total	2	3	5
Department of Law Enforcement			
Criminal Justice Standards and Training Commission	4	0	4
Agency Total	4	0	4
Department of Management Services			
Department of Management Services	1	0	1
Division of State Group Insurance	2	9	11
Division of Retirement	3	4	7
Agency Total	6	1	19
Division of Administrative Hearings			
Division of Administrative Hearings	0	2	2
Agency Total	0	2	2
Department of Education			
Department of Education	0	3	3
Division of Blind Services	1	2	3
Charter Schools Operation	1	2	3
Confidential Vocational Rehabilitation Cases	12	6	18
Education Practices Commission	86	50	136
State Board of Education	1	1	2
Vocational Rehabilitation Services	0	1	1
Agency Total	101	65	166
Department of Lottery			
Bid Protest	1	0	1
Agency Total	1	0	1
Department of State			
Division of Historical Resources	1	0	1
Agency Total	1	0	1
Department of Transportation			

Division of Administrative Hearings

ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2016 - 2017

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Transportation	6	11	17
Agency Total	6	11	17
Department of Business and Professional Regulation			
Board of Accountancy	1	0	1
Board of Architecture	0	4	4
Construction Industry Licensing Board	6	4	10
Division of Alcoholic Beverages and Tobacco	13	3	16
Division of Drugs, Devices, and Cosmetics	3	0	3
Division of Real Estate	0	2	2
Electrical Contractors Licensing Board	1	0	1
Florida Real Estate Appraisal Board	0	1	1
Florida Real Estate Commission	3	3	6
Division of Hotels and Restaurants	8	1	9
Division of Land Sales, Condominiums, and Mobile H	1	0	1
Non-licensed Respondent	19	4	23
Division of Pari-Mutuel Wagering	18	14	32
Board of Professional Engineers	1	2	3
Agency Total	74	38	112
Florida Commission on Ethics			
Florida Commission on Ethics	8	4	12
Agency Total	8	4	12
Florida Elections Commission			
Florida Elections Commission	1	5	6
Agency Total	1	5	6
Florida Housing Finance Corporation			
Florida Housing Finance Corporation	5	7	12
Agency Total	5	7	12
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	2	1	3
Agency Total	2	1	3
Growth Management (No Agency)			
Growth Management (No Agency)	4	7	11
Agency Total	4	7	11
Office of the Governor			
Administration Commission	0	1	1
Florida Land and Water Adjudicatory Commission, Co	1	2	3
Agency Total	1	3	4
Agency for Health Care Administration			
Agency for Health Care Administration	33	31	64
Office of Certificate of Need	8	19	27
Medicaid Cost Reimbursement	1	0	1
Medicaid Program Integrity	42	30	72
Office of Licensure and Certification	39	29	68
Agency Total	123	109	232
Department of Highway Safety and Motor Vehicles			

Division of Administrative Hearings

ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2016 - 2017

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Highway Safety and Motor Vehicles	5	27	32
Section 320.642	30	11	41
Agency Total	35	38	73
Medical Arbitration			
Medical Arbitration	5	6	11
Agency Total	5	6	11
No Agency			
No Agency	0	1	1
Construction Mining	1	0	1
Agency Total	1	1	2
Florida Birth Related Neurological Injury Compensation			
Florida Birth-Related Neurological Injury Compensa	28	23	51
Agency Total	28	23	51
Office of Financial Regulation			
Office of Financial Regulation	10	12	22
Agency Total	10	12	22
Office of Insurance Regulation			
Office of Insurance Regulation	2	1	3
Agency Total	2	1	3
Original Sentencing Court			
Victims of Wrongful Incarceration Act	0	1	1
Agency Total	0	1	1
Department of Revenue			
Department of Revenue	27	35	62
Child Support Enforcement Program	1,835	1,936	3,765
Agency Total	1,862	1,965	3,827
State Board of Administration			
State Board of Administration	7	3	10
Agency Total	7	3	10
Universities and Colleges			
Florida A & M University	1	0	1
Miami-Dade Community College	2	0	2
University of Central Florida	0	1	1
Agency Total	3	1	4
Water Management Districts			
Northwest Florida Water Management District	1	0	1
South Florida Water Management District	3	8	11
St. Johns River Water Management District	2	4	6
Suwannee River Water Management District	0	1	1
Southwest Florida Water Management District	5	4	9
Agency Total	11	17	28
NON BAKER ACT TOTAL	2,879	2,836	5,715

Division of Administrative Hearings

ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2016 - 2017

AGENCY	Jul-Dec	Jan-June	TOTAL
Baker Acts			
Correct Care Recovery Solutions	286	243	529
Correct Care Recovery Solutions Arcadia	0	1	1
Department of Veterans Affairs	1	0	1
Florida State Hospital	235	234	469
Florida Women's Reception Center	5	2	7
James A. Harley VA Hospital	0	1	1
Lake Correctional Institution	16	22	38
Lake Wales Medical Center Golden Care Unit	2	0	2
Largo Medical Center, Indian Rocks	1	1	2
Mease Dunedin Hospital	0	1	1
Medical Center of Trinity-West Pasco Campus	0	1	1
Meridian Behavioral Healthcare, Inc.	0	1	1
Morton Plant North Bay Hospital-Recovery Cente	0	2	2
North Florida Regional Medical Center	0	9	9
Northeast Florida State Hospital	395	420	815
Peace River Center	10	4	14
Personal Enrichment Mental Health Services	0	6	6
Shands at Vista	1	1	2
Shands University of Florida Health	1	0	1
Suwannee Correctional Institution	4	0	4
The Centers	3	3	6
West Florida Community Care Center	27	36	63
Winter Haven Hospital	0	1	1
Baker Act Total	987	989	1,976

SUMMARY

Division of Administrative Hearings
Actual, Estimated and Requested Expenditures
(Operating Trust Fund unless otherwise noted)

Adjudication of Disputes

<u>Appropriation Category</u>	<u>Actual Expenditures FY 2016-17</u>	<u>Estimated Expenditures FY 2017-18</u>	<u>Requested Expenditures FY 2018-19</u>
Salaries and Benefits	\$6,920,779	\$7,145,292	\$7,165,480
Other Personal Services	\$0	\$18,082	\$18,082
Expenses	\$992,496	\$1,025,647	\$1,018,147
Operating Capital Outlay	\$64,862	\$65,000	\$65,000
Special Categories			
Contracted Services (GR)	\$6,105	\$0	\$0
Contracted Services	\$203,249	\$185,495	\$200,495
Contracted Legal Svcs.	\$1,897	\$1,000	\$1,000
Risk Mgmt. Ins.	\$25,115	\$23,454	\$23,454
Lease/Purch/Equip	\$16,013	\$31,500	\$24,000
TR/DMS/HR SVCS	<u>\$20,718</u>	<u>\$20,272</u>	<u>\$20,272</u>
Total Program Budget	<u>\$8,251,234</u>	<u>\$8,515,742</u>	<u>\$8,535,930</u>
Total Program Positions	65	65	65

Workers' Compensation Appeals

<u>Appropriation Category</u>	<u>Actual Expenditures FY 2016-17</u>	<u>Estimated Expenditures FY 2017-18</u>	<u>Requested Expenditures FY 2018-19</u>
Salaries and Benefits	\$13,317,184	\$13,918,183	\$13,982,552
Other Personal Services	\$739	\$17,836	\$17,836
Expenses	\$2,739,095	\$2,695,842	\$2,720,842
Operating Capital Outlay	\$233,183	\$64,916	\$64,916
Special Categories			
Contracted Services	\$999,392	\$1,023,324	\$1,008,324
Contracted Legal Svcs.	\$5,268	\$1,279	\$1,279
Tenant Broker Commissions	\$2,034	\$0	\$0
Risk Mgmt. Ins.	\$64,019	\$80,989	\$80,989
Lease/Purchase/Equip	\$9,579	\$44,000	\$34,000
TR/DMS/HR SVCS	<u>\$60,359</u>	<u>\$59,061</u>	<u>\$59,061</u>
Total Program Budget	<u>\$17,430,852</u>	<u>\$17,905,430</u>	<u>\$17,969,799</u>
Total Program Positions	176	176	176

TOTAL DIVISION BUDGET	<u>\$25,682,086</u>	<u>\$26,421,172</u>	<u>\$26,505,729</u>
TOTAL DIVISION POSITIONS	241	241	241

2018 DOAH ANNUAL REPORT

#: 45

PERIOD: *July 1, 2017 - June 30, 2018*

DATE: January 31, 2019

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Robert S. Cohen, Chief Judge

PAGES: 27

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2018



STATE OF FLORIDA

DIVISION OF ADMINISTRATIVE HEARINGS



January 31, 2019

FORTY-FIFTH ANNUAL REPORT

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DIVISION OF ADMINISTRATIVE HEARINGS
FORTY-FIFTH ANNUAL REPORT

INTRODUCTION

This report is submitted to the Joint Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of section 120.65(8), Florida Statutes, which provides:

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.
- (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).

GENERAL

The Division of Administrative Hearings (Division or DOAH) administers two programs. One, which is the subject of this report, is the Adjudication of Disputes program that operates pursuant to chapter 120, Florida Statutes. The other is the Workers' Compensation Appeals program, Office of the Judges of Compensation Claims (OJCC), which operates pursuant to chapter 440, Florida Statutes. Section 440.45(5) requires the OJCC to issue an annual report to the Governor, the House of Representatives, the Senate, The Florida Bar, and the statewide nominating commission. The OJCC annual report was submitted prior to December 1, 2018. Accordingly, the present report will focus primarily on the Adjudication of Disputes program.

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However, because the headquarters element of the Division must support both programs, this report necessarily must include some information addressing the OJCC.

The Clerk's Office at the Division is constantly seeking ways to make the electronic filing and service of pleadings more streamlined and user-friendly. Additionally, the availability of the online dockets and the indexing of final orders performed by the Division for all state agencies is an area where improvements can be made in search engine capabilities and improvement of access of the orders to the public. The Clerk's Office has continued to update e-filing instructions on its website as e-filing evolves. Also, in FY 2018-19, the Clerk's Office, in conjunction with the information technology (IT) staff, will continue testing to enhance the case search to include locating documents within dockets for non-confidential cases giving greater access to the Division's database. Finally, eService will expand to include links to Administrative Law Judge rulings, along with the motions and/or responses.

UTILIZATION RATES

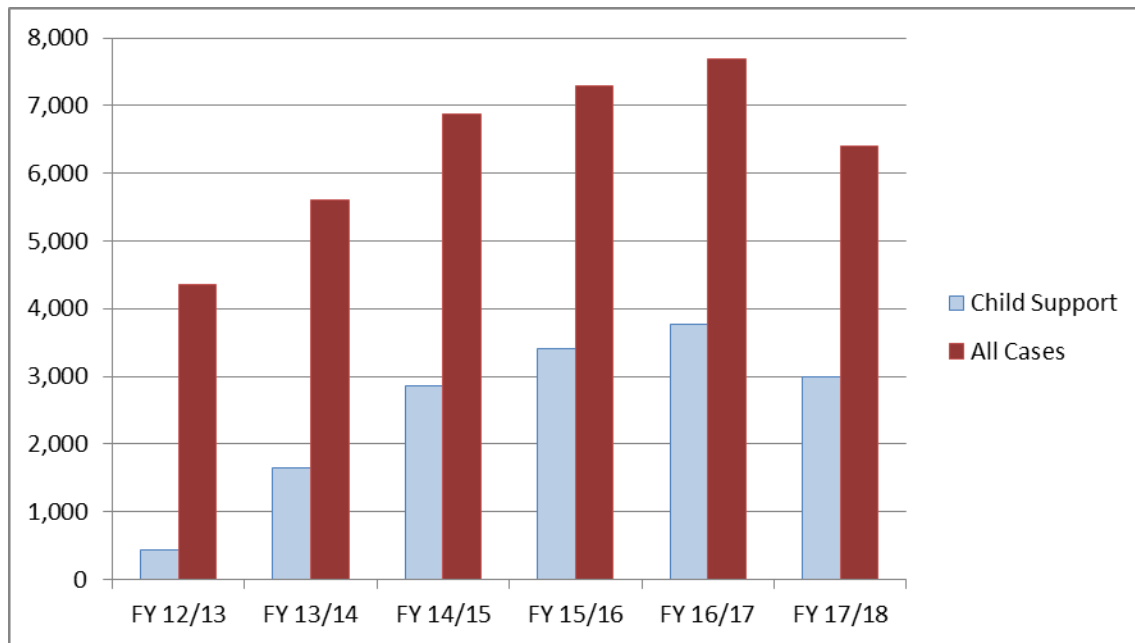
Appendix 1 breaks out by agency the utilization rates of Division resources and demonstrates, in descending order, that 12 agencies utilized 97 percent of the Division's non-contract cases docket: the Department of Revenue, the Agency for Health Care Administration, the Department of Management Services, the Department of Health, the Department of Financial Services, the Department of Environmental Protection, the Department of Children and Families, the Department of Education, the Department of Transportation, the Department of Business and Professional Regulation, the Agency for Persons with Disabilities, and the Fish and Wildlife Conservation Commission. Additionally, entities such as water management districts, cities, counties, school districts, and other educational entities, are significant users of the Division's services and are reported separately since they are covered by contractual agreements.

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During FY 2017-18, state agencies and other governmental entities referred 6,393 requests for assignment of an Administrative Law Judge compared to 7,691 requests filed the previous year. This is a 16-percent decrease from the previous fiscal year. Requests for assignment of Administrative Law Judges from the following six agencies constitute 55 percent of our fiscal year caseload: the Department of Children and Families (163 cases, an increase of 90 percent over the 86 cases filed in FY 2016-17); the County School Boards (277 cases, an increase of 14 percent over the 244 cases filed in FY 2016-17); the Department of Elder Affairs (11 cases, an increase of 450 percent over the 2 cases filed in FY 2016-17); the Florida Commission on Ethics (15 cases, an increase of 25 percent over the 12 cases filed in FY 2016-17); the Florida Housing Finance Corporation (29 cases (includes 1 “informal hearing” contract case) an increase of 45 percent over the 20 cases (includes 8 “informal hearing” contract cases) filed in FY 2016-17); and the Department of Revenue (3,009 cases, a decrease of 21 percent over the 3,827 cases filed in FY 2016-17).

Since FY 2012-13, with the exception of this past year as explained below, the Department of Revenue, Child Support Program, has been referring cases on an upward trend. Prior to FY 2012-13, the referrals from this program had started on a downward trend due to the implementation of a new system at the Department of Revenue with the lowest referral of child support cases ending in FY 2012-13. In FY 2017-18, the Department of Revenue, Child Support Program, made adjustments in personnel at the coordinator level, adding additional personnel to streamline the process of referring cases and filing rendered final orders with the Division. The Division has noticed positive changes associated with the adjustments by the Department of Revenue.

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During the past six-month period, the Department of Revenue has referred 1,621 child support cases. This appears to be a steady trend for the program.

UTILIZATION OF PERSONNEL

As of June 30, 2018, the Adjudication of Disputes program had 65 established positions consisting of the Director and Chief Judge, the Deputy Chief Judge, 31 Administrative Law Judges, seven Administrative Secretaries, five Administrative Assistants, one Budget Officer, one Executive Assistant, two Staff Assistants, one Director of Administration, one Personnel Officer, one Purchasing Specialist, one Accounting Services Administrator, one Operations and Management Consultant, one Accountant, one Database Administrator, one Distributed Computer Systems Analyst, one Systems Programmer, one Clerk of the Division, two Commission Deputy Clerks, two Deputy Clerks, and two Senior Clerks. With one Administrative Secretary or Administrative Assistant assigned to three judges, this represents a highly efficient model for the adjudicatory process. Our judges utilize a minimum of

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administrative personnel to perform their assigned tasks, making them a largely self-sufficient group of adjudicators.

The Workers' Compensation Appeals program had 176 established positions consisting of one Deputy Chief Judge of Compensation Claims, 31 Judges of Compensation Claims, 29 Senior Attorneys/State Mediators, 35 Deputy Clerks (includes 31 in the field offices and four in the central Clerk's Office), one Office Operations Manager, 38 Commission Deputy Clerks (includes 31 in the field offices and seven in the central Clerk's Office), five Administrative Assistants, 27 Administrative Secretaries, one Secretary Specialist, one Staff Assistant, one Clerk, one Accountant, one Court Reporter, one Distributed Computer Systems Administrator, two Distributed Computer Systems Analysts, and one Attorney. In an extremely high-volume area of the law and in recognition of the potential for an economic downturn, the program constantly seeks ways to combine staff positions and responsibilities in the interest of cost savings.

Area Changes

The Adjudication of Disputes program area previously was divided into four sections (Northern District, Middle District, Southern District, and Medical and Environmental District). Over time, the specializations of Administrative Law Judges have been absorbed into the other three districts, and, as a result of changes to the Florida Statutes, there have been fewer environmental cases. Therefore, effective July 1, 2018, the Medical and Environmental District was deleted, and the positions, along with specialized cases, were distributed to the other three districts. The medical and environmental cases, however, continue to be assigned to judges with the most experience handling those particular matters.

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HEARING REQUESTS

During FY 2017-18, the Division processed 6,393 hearing requests compared to 7,691 hearing requests filed the previous fiscal year. Of the total hearing requests filed, 1,737 were Baker Act cases. The remaining 4,656 hearing requests were primarily filed pursuant to sections 120.56, 120.569, and 120.57(1). Most notable were the referrals from the Department of Children and Families, which increased its referrals by 90 percent with 163 hearing requests filed this fiscal year compared to 86 hearing requests previously reported. Other hearing requests filed are itemized by agency in the attached Appendix 2.

In FY 2017-18, each Administrative Law Judge conducted an average of 197 hearings and wrote an average of 94 Recommended or Final Orders of varying length and complexity. In addition, each Administrative Law Judge closed an average of 52 cases, which were settled or otherwise dismissed without a final hearing. The case closure data does not include Baker Act closures.

INFORMATION TECHNOLOGY

The Division maintains two mission-critical databases and applications: the DOAH Case Management System (CMS) and the OJCC Case Management System (JCCa). Associated applications include full-text retrieval and document indexing of orders issued by the Division's Administrative Law Judges and Judges of Compensation Claims. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include office automation (word processing and e-mail) and online legal research via LexisNexis and other Internet resources.

D I V I S I O N O F A D M I N I S T R A T I V E H E A R I N G S
F O R T Y - F I F T H A N N U A L R E P O R T

Electronic Filing

During calendar year 2018, there were 43,202 documents uploaded via the eALJ filing portal; 40,395 documents were served (via email) to 158,755 parties of record. For the OJCC, 593,648 documents were uploaded via the eJCC filing portal; 761,337 documents were electronically served to 1,779,169 parties of record.

Indexing

Pursuant to section 120.53(2), all state agencies shall electronically transmit their agency final orders to the Division's website for indexing purposes, effective July 1, 2015. To date, a total of 162,918 documents have been submitted to the Agency Index Documents database, with 26,500 of those uploaded in calendar year 2018.

Cybersecurity

The Division has long been concerned with the integrity of its IT systems. This concern has grown out of a responsibility we feel to those whose private information is transmitted to our care through electronic means; to appropriate walls being developed to keep that private information away from all but those who are entitled to view it; and to appropriate measures being taken to ensure that the users of the Division's systems do not accidentally release confidential information to those not entitled to it or to infecting the IT systems with malware or other intrusions from outside entities that are not authorized to view confidential or proprietary information. In 2018, the Division's primary IT focus continued to be on security.

Cybersecurity awareness training provided to all Division personnel was focused on safe mobile computing and learning to recognize malicious emails. Special training sessions were also provided to judges and mediators throughout the year. We will continue to comply with all

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state laws and rules that may be developed, as well as our internally produced protocols to ensure the Division's IT systems are secure from both external and internal attack.

OPERATING BUDGET

The Division is 100 percent trust funded. Appendix 3 summarizes the actual, estimated, and requested expenditures for the Division's programs for FY 2017-18, FY 2018-19, and FY 2019-20, respectively.

For the Adjudication of Disputes program, each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours conducted by its judges for all agencies. Based on this data, the Division's budget is prorated among the state agencies utilizing its services, and the Legislature appropriates fund transfers to the Division from those agencies. Hence, the amount each agency transfers to the Division is based on the amount of time the judges spend in pre-hearing conferences, motion hearings, and final hearings for each agency in a given year. Beginning in FY 2003-04, data on cancelled and continued hearings were excluded from the report under the theory that the agencies should not be penalized for accomplishing the resolution of disputes short of proceeding to hearing. In September 2018, the Division submitted its thirty-second "Hearing Hours Held" report (see Appendix 1). In FY 2017-18, a total of 5,284.50 hearing hours were held.

The Division also is authorized to enter into contracts with non-state entities, such as cities, counties, regional planning councils, water management districts, school districts, and other educational entities for the provision of Administrative Law Judge services. When needed, the Division has also entered into a contract with the Florida Legislature to hear all Florida

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Senate claim bills that require a hearing before a Special Master. Contract organizations reimburse the Division for the costs of its services at a rate that is based on a total-cost-recovery methodology. The current contract rate is \$153 an hour, a most reasonable rate for adjudicatory services by experienced lawyer-judges.

The Division has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to non-state entities. This has been accomplished by revising each year the hourly rate that is paid by the non-state entities for Administrative Law Judge services, by marketing the Division's services to attract new non-state entities, and by backing out these revenues before the budget is prorated among the state agencies. The assessment for administrative support that is paid by the Workers' Compensation Appeals program also is backed out before the budget is prorated. Hence, state agency transfers have been reduced by about \$1.2 million in the Division's FY 2019-20 Legislative Budget Request. In the coming year, the Director and other members of the Division's staff will continue their efforts to solicit new contractual business from local government entities to further offset the cost of supporting the Division that is borne by our state agencies.

The Workers' Compensation Appeals program is supported by cash transfers from the Workers' Compensation Administration Trust Fund that is administered by the Department of Financial Services. This trust fund is funded through a workers' compensation premium tax assessment which supports the entire workers' compensation program, not only the appeals program administered by the Division.

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RECOMMENDATIONS CONCERNING THE A.P.A.

The Division closely follows judicial decisions concerning the application and interpretation of the Administrative Procedure Act (A.P.A.). The Division clearly recognizes that it must remain fair and impartial in all matters affecting the agencies and private parties that come before it for adjudication of their disputes. However, pursuant to its statutory mandate in section 120.65(8)(b), the Division is required to make recommendations for changes or improvements in the A.P.A. "or any agency's practice or policy with respect thereto." Over the past several years, this report has contained a discussion of how the Division can help those agencies housing professional licensing boards (the Department of Business and Professional Regulation and the Department of Health). Although these agencies have not chosen to avail themselves of our offer, we remain willing and able to create dockets to handle minor violations involving fines and compliance only (as opposed to suspension or revocation of licenses) to allow the professional licensing boards, comprised of volunteers who often meet on weekends away from their homes, to lighten their loads to allow them to concentrate on the more severe cases that come before them. As stated previously, section 120.65 was amended in 2006 to require the Division to include recommendations as to the types of cases that should be conducted under the summary hearing process described in section 120.574. § 120.65(8)(c), Fla. Stat. Finally, section 120.65 was amended to require the Division's report to include information regarding each agency's compliance with the filing requirement in section 120.57(1)(m). We believe these "minor violation" matters are exactly what were contemplated by the summary hearing procedure, and sending a portion or all of these matters to the Division would save the agencies housing these boards' time and resources. The Division could handle these additional summary matters with its current complement of judges and support staff.

**DIVISION OF ADMINISTRATIVE HEARINGS
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The Division expects bills to be filed in 2019 to either increase the caseload or types of cases to be heard, to implement constitutional amendments (such as Amendment 6 related to deference to agency interpretation of statutes), or related to rulemaking. As in the past, the Division will work with the Legislature and proponents or opponents of any proposed legislation affecting administrative practice to ensure that the goals of due process and the efficient adjudication of disputes are maintained. This is generally done through the bill analysis process in which staff members ask whether fiscal and policy impacts might result from the passage of proposed legislation. It is the practice of the Division to respond timely to any such requests and to inform the Legislature that proposed statutory changes to improve the efficiency of the administrative process and to increase the caseload at the Division are welcome. The Division also consults with the Administrative Law Section of The Florida Bar to ensure consistency of our position with those who routinely practice in the administrative law arena. The undersigned and any other necessary staff of the Division will cooperate fully with Legislative and Executive branch requests regarding these or any other proposed procedural and substantive changes to chapter 120, or any statutes related to the adjudication of disputes in the administrative forum. We shall testify before legislative committees, meet with members of the Legislature, or confer with stakeholders, as requested, to provide information and insights into how proposed changes might affect the Division and the cases we hear.

As noted above, the Division has experienced immense growth in the use of filing of pleadings, orders, and other documents by electronic means since mandatory electronic filing has become the law. Under this system, registered users of the electronic filing program continue to realize the efficiencies and savings afforded by not using the mail, both regular and overnight, courier services to file papers with the Division, copying charges and materials, and staff time to

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carry out each of these functions. Since the system is mandatory, not only has the Division saved costs, but the users of the system have realized great savings in time, effort, and the cost of materials and staff. Moreover, electronic filing has allowed all filed pleadings to be made available immediately on the Division's website for use by the public, thereby adding to the transparency of the work performed by the Division. Notably, it is hoped that legislation will pass during the 2019 Session to formally allow the Division to electronically serve all pleadings and orders on the registered parties in our cases. This service is already being provided as a DOAH initiative. This will eliminate any costs associated with attorneys serving pleadings and documents on opposing counsel or parties, if unrepresented. Further, this mandate will eliminate any disputes between attorneys and parties concerning whether they were actually served with papers filed at the Division. The Workers' Compensation Appeals program has already instituted e-service of all pleadings and papers filed, which has resulted in additional cost savings for those who conduct business with the Division. Realizing that not everyone has access to a computer, the legislation carved out an exception to the requirement of electronic filing for those unable to gain reasonable access to a computer for filing documents. Many unrepresented litigants have chosen to use the electronic filing system, even though not required to by law since they have realized the value of a no-cost way of filing their papers and pleadings.

Since 2009, the Division has offered video-teleconferencing capabilities in each of its 17 district offices around the state, as well as in the central offices in Tallahassee. As the Division has absorbed annual budget cuts, this capability has resulted in significant savings in costs and time, since the judges assigned to cases outside of Tallahassee are able to conduct many hearings via video, allowing them to maximize their office time to more timely issue the highly detailed orders that are required in administrative hearings. The video-teleconferencing

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technology has developed to the point where many attorneys prefer its use to the live hearing since multiple sites may be linked for a single hearing, allowing, for example, the judge and agency representatives to be in Tallahassee, the party involved in the hearing to be in Ft. Lauderdale, and perhaps even a witness to appear in Orlando, rather than having everyone travel to one location. The Workers' Compensation Appeals program has further utilized video conferencing to allow judges in districts that have experienced a downturn in the number of cases filed to alleviate some of the backlog in those districts still experiencing high volume. This also allows the JCCs to move cases more quickly through the system through the use of an available judge rather than waiting for a judge with an overload of cases to become free. The use of video conferencing saves the cost of these judges traveling across the state and still provides a high-quality means of hearing the cases in a timely fashion. In addition to the use of video conferencing for hearings, video conferencing has become an invaluable training tool, allowing us to connect multiple cities to our trainers in Tallahassee, rather than sending people on the road to perform in-service training.

Pursuant to the requirement contained in section 120.65(8)(d), many agencies have improved the timeliness of filing their final orders with the Division. In this past fiscal year, 11 of the 33 reported agencies employing the services of the Division have completely or substantially complied with the 15-day filing requirement (Department of Agriculture and Consumer Services, Department of Business and Professional Regulation, Department of Corrections, Department of Environmental Protection, Department of Financial Services, Department of Health, Department of Highway Safety and Motor Vehicles, Florida Commission on Ethics, State Board of Administration, Universities and Colleges, and Water Management Districts). Overall, of the agency final orders filed with the Division between July 1, 2017, and

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June 30, 2018, 38 percent were filed within 15 days of entry by the agency. The Division once again intends to remind the agencies of the statutory requirement to timely file their final orders. Filing these final orders electronically makes the task a simple one for the agencies.

Finally, in 2015, the Administrative Law Section was successful in having legislation passed to require all agencies to file their final orders with the Division for indexing and retrieval. The Legislature designated the Division as the centralized electronic database for indexing agency final orders pursuant to section 120.53. All agencies now electronically transmit a certified text-searchable copy of each agency final order as described in section 120.53(2), which was rendered on or after the effective date. Also, the agencies may electronically transmit certified copies of all of the final orders, which were required to be in the subject matter index and rendered prior to July 1, 2015, for the Division to keep and make those orders available to the public in a searchable database. Thirty-one agencies (Executive Office of the Governor, Department of Agriculture and Consumer Services, Department of Financial Services, Office of Financial Regulation, Office of Insurance Regulation, Agency for Health Care Administration, Agency for Persons with Disabilities, Department of Business and Professional Regulation, Department of Children and Families, Department of Corrections, Commission on Offender Review, Department of Economic Opportunity (DEO), Department of Community Affairs (prior to DEO), Florida Housing Finance Corporation, Department of Education, Department of Environmental Protection, Department of Health, Department of Highway Safety and Motor Vehicles, Department of Law Enforcement, Department of Management Services, Department of State, Florida Elections Commission, Florida Commission on Ethics, Public Employee Relations Commission, Public Service Commission, County School Boards, Department of Lottery, Department of Transportation, State Board of Administration,

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Department of Revenue, and Water Management Districts) have already taken advantage of this service.

CONCLUSION

The Division continues to supply timely, high-quality adjudication of disputes pursuant to chapter 120, the Administrative Procedure Act. The Division constantly seeks ways to make the process more affordable to state agencies and citizens, and continues to expand its base to counties, cities, and other users of its program in order to reduce the cost of providing services. In the coming year, the Division will continue to focus its efforts on improved technology in order to streamline the electronic filing of all matters before it, as well as to improve access to the public for research, order preparation, and archiving. The Division strives to meet the performance standards required by the Legislature, and the undersigned takes those a step further by striving to meet the performance standards now reviewed by the Governor and Cabinet sitting as the Administration Commission. Moreover, the Division is mindful of the cost of proceeding to hearing and seeks to minimize any potential delays in moving cases through the system. This ensures that individuals, small businesses, and major corporations reduce the cost, time, and opportunity lost through judicial delay. By helping matters move through the Division in an expeditious manner, both the cost of litigation and the time lost in the pursuit of a remedy are reduced. Through the elimination of programs that are not cost-effective, the elimination of personnel no longer needed in the face of improved technology, promoting alternative dispute resolution short of hearing, the encouragement toward agencies to take advantage of the summary hearing process, and the increase in the number of non-state agencies contracting for the Division's services, the Division contributes to the goal of efficient government.

D I V I S I O N O F A D M I N I S T R A T I V E H E A R I N G S
F O R T Y - F I F T H A N N U A L R E P O R T

To conclude, we consider the Division successful when three things have been accomplished: first, that we provide a fair, unbiased adjudication of administrative and workers' compensation disputes, with the most qualified judges available, who are free from bias and consider nothing but applying the law to the relevant facts before them; second, that we serve the public by offering an electronic filing service that assumes the burden of in-person filings, service of pleadings and papers, and online research of the DOAH database of agency decisions at no cost to the users; and finally, that we provide for our staff a secure, respectful, non-discriminatory, comfortable, and supportive work environment, which allows them to best serve the public. We shall continue to accomplish this without sacrificing quality and fairness in the Adjudication of Disputes program, and shall accomplish our goals without requesting additional funding from the Legislature, except in extraordinary circumstances.

Respectfully submitted,



ROBERT S. COHEN
Director and Chief Judge

RSC/lds

6/30/2018

Appendix 1

HEARING HOURS HELD REPORT
FY 2017-2018
For the Period 07/01/17 through 6/30/2018

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	PRORATED AMOUNT OF FY 2019-20 LBR
AGR	0.50	0.00	3.00	3.50	0.08596%	\$6,411
AHCA	11.25	10.00	807.50	828.75	20.35491%	\$1,518,151
APD	1.25	0.00	56.00	57.25	1.40612%	\$104,874
CIT	0.00	0.00	0.00	0.00	0.00000%	\$0
COR	0.75	0.00	10.25	11.00	0.27017%	\$20,150
DBPR	2.75	3.75	55.25	61.75	1.51664%	\$113,117
DCF	5.25	5.25	113.50	124.00	3.04556%	\$227,150
DEO	2.50	1.50	35.00	39.00	0.95788%	\$71,442
DEP	4.00	2.25	121.00	127.25	3.12538%	\$233,104
DFS	4.75	5.00	137.75	147.50	3.62274%	\$270,199
DLA	0.00	0.00	0.00	0.00	0.00000%	\$0
DLE	0.00	0.00	0.00	0.00	0.00000%	\$0
DMA	0.00	0.00	0.00	0.00	0.00000%	\$0
DMS	9.00	6.75	323.50	339.25	8.33231%	\$621,457
DOE	3.25	4.75	108.75	116.75	2.86749%	\$213,869
DOH	5.00	10.50	161.50	177.00	4.34729%	\$324,238
DOS	0.00	0.00	0.00	0.00	0.00000%	\$0
DOT	1.00	2.25	84.75	88.00	2.16137%	\$161,203
ELDER	1.00	0.50	35.25	36.75	0.90262%	\$67,321
ETH	0.00	0.00	8.75	8.75	0.21491%	\$16,029
FEC	0.00	1.00	2.50	3.50	0.08596%	\$6,411
FWCC	1.00	1.25	41.25	43.50	1.06840%	\$79,686
GOV	0.00	0.00	3.00	3.00	0.07368%	\$5,496
HSM	2.00	2.00	28.25	32.25	0.79209%	\$59,077
JUV	0.00	0.00	3.25	3.25	0.07982%	\$5,954
LOT	0.00	0.00	0.00	0.00	0.00000%	\$0
PSC	0.00	0.00	0.00	0.00	0.00000%	\$0
REV	0.75	2.00	1816.75	1819.50	44.68869%	\$3,333,062
VET	0.00	0.00	0.00	0.00	0.00000%	\$0
TOTAL:	56.00	58.75	3956.75	4071.50	100.00000%	\$7,458,401

NOTE: Hearing hours held in contract cases (water management districts, regional planning councils, cities, counties, school district/educational entity cases, etc.), NICA cases, and other miscellaneous cases are reported separately.

*Prior to prorating among state agencies, DOAH's FY 2019-20 Legislative Budget Request totaling \$8,610,153 was adjusted to reflect estimated revenue of \$528,525 from contract entities, payment of \$704,435 from the Workers' Compensation Appeals Program for general management and administrative services costs, estimated revenue of \$15,100 from cases filed pursuant to Chapter 403, Florida Statutes, and the estimated nonoperating cost of \$96,308 for state agency video teleconferencing hearings.

6/30/2018

Appendix 1

HEARING HOURS HELD BY CONTRACT/EDUCATIONAL/OTHER AGENCIES
FY 2017-2018

For the Period 07/01/17 through 6/30/18

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF HOURS ALL AGENCIES
CONTRACT	5.75	2.75	133.75	142.25	2.69183%
EPP	0.00	3.25	36.50	39.75	0.75220%
TL	0.00	0.00	0.00	0.00	0.00000%
BA	0.00	0.00	315.25	315.25	5.96556%
GM	0.00	2.25	52.75	55.00	1.04078%
MA	0.25	0.50	42.00	42.75	0.80897%
NICA	1.00	0.50	14.75	16.25	0.30750%
OTHER	0.50	0.00	14.50	15.00	0.28385%
SENATE CLAIM	0.00	0.00	0.00	0.00	0.00000%
SCHBDS	15.75	8.25	562.75	586.75	11.10323%
TOTAL:	23.25	17.50	1172.25	1213.00	22.95392%

CONTRACT: Water Management Districts, Regional Planning Councils, Cities, Counties, etc., as specified in § 120.65(9), Fla. Stat.

EPP: Electrical Power Plant siting cases filed by DEP, pursuant to Ch. 403, Fla. Stat.

TL: Transmission line siting cases filed by DEP, pursuant to Ch. 403, Fla. Stat.

BA: Baker Act

GM: Growth Management cases filed by individuals, pursuant to § 163.3184(5), Fla. Stat.

MA: Medical Arbitration

NICA: Florida Birth-Related Neurological Injury Compensation Association

OTHER: Noncontract entities such as Victims of Wrongful Incarceration Compensation Act

SENATE CLAIM BILLS: Excess judgment claims and equitable claims, pursuant to Senate Rules 4.81

SCHBDS: School boards and other educational entities specified in § 120.65(9), Fla. Stat.

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2017 - 2018

Appendix 2

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	2	1	3
Division of Consumer Services	1	0	1
Agency Total	3	1	4
Agency for Persons with Disabilities			
Agency for Persons with Disabilities	5	8	13
General Revenue	0	1	1
License	5	5	10
Agency Total	10	14	24
Department of Children and Family Services			
Department of Children and Family Services	3	4	7
Alcoholic, Drug Abuse and Mental Health	22	11	33
Exemption Ch. 435, position of special trust	15	20	35
BA/Florida State Hospital	0	1	1
Family Safety and Preservation Programs	32	45	77
Office of Licensure and Certification	6	4	10
Non-Baker Act Total	78	85	163
Contract Hearings			
City of Clearwater	1	2	3
City of Dania Beach Police and Firefighters' Retir	0	1	1
Code Enforcement	1	2	3
Emerald Coast Utilities Authority	1	6	7
Informal Hearing	1	0	1
Leon County	1	1	2
Monroe County	2	1	3
Pinellas County	0	1	1
Sunshine State One-Call of Florida	0	1	1
Tampa Bay Water, a Regional Water Supply Authority	1	0	1
Agency Total	8	15	23
Florida Commission on Human Relations			
Florida Commission on Human Relations	68	29	97
Fair Housing Act	6	15	21
Agency Total	74	44	118
Department of Citrus			
Department of Citrus	1	0	1
Agency Total	1	0	1
Department of Corrections			
Department of Corrections	2	2	4
Agency Total	2	2	4
County School Boards			
County School Boards	0	1	1
Alachua County School Board	0	1	1
Bradford County School Board	0	1	1
Brevard County School Board	1	1	2
Broward County School Board	18	28	46
Charlotte County School Board	0	2	2
Citrus County School Board	0	1	1

ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2017 - 2018

AGENCY	Jul-Dec	Jan-June	TOTAL
Clay County School Board	0	3	3
Collier County School Board	3	0	3
Columbia County School Board	1	0	1
Miami-Dade County School Board	21	25	46
Duval County School Board	4	4	8
Escambia County School Board	2	6	8
Hamilton County School Board	0	1	1
Hernando County School Board	1	0	1
Highlands County School Board	0	1	1
Hillsborough County School Board	3	4	7
Holmes County School Board	0	1	1
Lafayette County School Board	0	1	1
Lake County School Board	2	4	6
Lee County School Board	2	5	7
Leon County School Board	2	4	6
Marion County School Board	0	2	2
Martin County School Board	0	2	2
Monroe County School Board	0	1	1
Nassau County School Board	1	1	2
Okaloosa County School Board	0	2	2
Okeechobee County School Board	1	0	1
Orange County School Board	8	7	15
Osceola County School Board	1	1	2
Palm Beach County School Board	12	13	25
Section 504 cases	2	3	5
Pasco County School Board	1	5	6
Pinellas County School Board	5	5	10
Polk County School Board	3	6	9
St Johns County School Board	3	2	5
St Lucie County School Board	5	4	9
Santa Rosa County School Board	1	0	1
Sarasota County School Board	2	2	4
Seminole County School Board	3	8	11
Volusia County School Board	0	7	7
Wakulla County School Board	1	0	1
Walton County School Board	1	2	3
Agency Total	110	167	277
Department of Elder Affairs			
Department of Elder Affairs	7	4	11
Agency Total	7	4	11
Department of Economic Opportunity			
Department of Economic Opportunity	6	3	9
Agency Total	6	3	9
Department of Environmental Protection			
Department of Environmental Protection	12	14	26
Agency Total	12	14	26
Department of Financial Services			
Department of Financial Services	1	2	3
Division of Insurance Agent and Agency Services	4	3	7
Division of Unclaimed Property	1	1	2
Division of Funeral, Cemetery, and Consumer Service	4	6	10

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2017 - 2018

Appendix 2

AGENCY	Jul-Dec	Jan-June	TOTAL
Division of Workers` Compensation	119	93	212
Agency Total	129	105	234
Department of Health			
Department of Health	5	9	14
Board of Chiropractic	0	3	3
Board of Clinical Social Work, Marriage and Family	0	2	2
Board of Dentistry	0	3	3
Bureau of Emergency Medical Services	0	3	3
Division of Emergency Preparedness and Community S	1	1	2
Board of Medicine	7	12	19
Board of Massage Therapy	5	9	14
Board of Nursing	7	28	35
Board of Osteopathic Medicine	1	2	3
Board of Pharmacy	0	1	1
Board of Podiatric Medicine	0	1	1
Board of Physical Therapy Practice	0	1	1
Board of Respiratory Therapy	1	0	1
Agency Total	27	75	102
Department of Juvenile Justice			
Department of Juvenile Justice	1	1	2
Agency Total	1	1	2
Department of Law Enforcement			
Department of Law Enforcement	1	0	1
Criminal Justice Standards and Training Commission	1	4	5
Agency Total	2	4	6
Department of Management Services			
Department of Management Services	0	2	2
Convicted Vendor List	1	0	1
Division of State Group Insurance	0	2	2
Division of Retirement	1	3	4
Agency Total	2	7	9
Division of Administrative Hearings			
Division of Administrative Hearings	0	1	1
Agency Total	0	1	1
Department of Education			
Department of Education	3	2	5
Charter Schools Operation	0	3	3
Confidential Vocational Rehabilitation Cases	5	6	11
Education Practices Commission	80	51	131
Vocational Rehabilitation Services	3	1	4
Agency Total	91	63	154
Department of Offender Rehabilitation			
Department of Offender Rehabilitation	1	0	1
Agency Total	1	0	1
Department of Transportation			
Department of Transportation	2	11	13

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2017 - 2018

Appendix 2

AGENCY	Jul-Dec	Jan-June	TOTAL
Agency Total	2	11	13
Department of Business and Professional Regulation			
Department of Business and Professional Regulation	2	4	6
Board of Accountancy	1	0	1
Board of Architecture	2	0	2
Regulatory Council of Community Assoc. of Managers	0	1	1
Construction Industry Licensing Board	2	1	3
Division of Alcoholic Beverages and Tobacco	4	3	7
Division of Real Estate	2	0	2
Electrical Contractors Licensing Board	1	0	1
Florida Building Commission	1	0	1
Florida Real Estate Appraisal Board	1	0	1
Florida Real Estate Commission	1	1	2
Division of Land Sales, Condominiums, and Mobile H	0	1	1
Non-licensed Respondent	8	4	12
Division of Pari-Mutuel Wagering	11	12	23
Board of Professional Engineers	2	1	3
Pilotage Rate Review Board	2	0	2
Agency Total	40	28	68
Florida Commission on Ethics			
Florida Commission on Ethics	5	10	15
Agency Total	5	10	15
Florida Elections Commission			
Florida Elections Commission	1	1	2
Agency Total	1	1	2
Florida Housing Finance Corporation			
Florida Housing Finance Corporation	0	28	28
Agency Total	0	28	28
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	4	8	12
Agency Total	4	8	12
Growth Management (No Agency)			
Growth Management (No Agency)	6	4	10
Agency Total	6	4	10
Office of the Governor			
Florida Land and Water Adjudicatory Commission	1	0	1
Florida Land and Water Adjudicatory Commission, Co	1	2	3
Agency Total	2	2	4
Agency for Health Care Administration			
Agency for Health Care Administration	22	25	47
Office of Certificate of Need	12	15	27
Medicaid Cost Reimbursement	1	3	4
Medicaid Program Integrity	17	13	30
Office of Licensure and Certification	31	25	56
Agency Total	83	81	164

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2017 - 2018

Appendix 2

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	7	2	9
Section 320.642	36	8	44
Agency Total	43	10	53
Medical Arbitration			
Medical Arbitration	8	6	14
Agency Total	8	6	14
Florida Birth-Related Neurological Injury Compensation			
Florida Birth-Related Neurological Injury Compensa	27	24	51
Agency Total	27	24	51
Office of Financial Regulation			
Office of Financial Regulation	8	6	14
Agency Total	8	6	14
Office of Insurance Regulation			
Office of Insurance Regulation	2	1	3
Agency Total	2	1	3
Department of Revenue			
Department of Revenue	16	10	26
Child Support Enforcement Program	1,412	1,571	2,983
Agency Total	1,428	1,581	3,009
State Board of Administration			
State Board of Administration	2	2	4
Agency Total	2	2	4
Self-contained Agencies			
Pinellas County Construction Licensing Board	3	0	3
Agency Total	3	0	3
Universities and Colleges			
Florida A & M University	1	0	1
Miami-Dade Community College	0	1	1
St. Petersburg Jr. College	1	0	1
University of Central Florida	1	0	1
Agency Total	3	1	4
Water Management Districts			
South Florida Water Management District	3	0	3
St. Johns River Water Management District	0	2	2
Suwannee River Water Management District	1	0	1
Southwest Florida Water Management District	2	8	10
Agency Total	6	10	16
NON BAKER ACT TOTAL	2,237	2,419	4,656

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2017 - 2018

Appendix 2

AGENCY	Jul-Dec	Jan-June	TOTAL
Baker Acts			
Correct Care Recovery Solutions	246	280	526
Department of Veterans Affairs	4	3	7
Florida State Hospital	211	159	370
Florida Women's Reception Center	2	3	5
Lake Correctional Institution	11	10	21
Lakeland Regional Health	1	1	2
Largo Medical Center, Indian Rocks	0	1	1
Life Management Center of Northwest Florida	1	0	1
Mease Dunedin Hospital	0	1	1
Mental Health Care, Inc. d/b/a Gracepoint	0	1	1
Meridian Behavioral Healthcare, Inc.	1	0	1
Morton Plant Hospital	0	2	2
Morton Plant North Bay Hospital-Recovery Cente	1	0	1
North Florida Regional Medical Center	1	2	3
Northeast Florida State Hospital	339	349	688
Peace River Center	5	3	8
Personal Enrichment Mental Health Services	2	2	4
Saint Anthony's Hospital	0	1	1
Shands at Vista	2	0	2
Shands University of Florida Health	2	2	4
Suwannee Correctional Institution	8	10	18
The Centers	1	1	2
West Florida Community Care Center	33	34	67
Winter Haven Hospital	1	0	1
Baker Act Total	872	865	1,737

SUMMARY

Division of Administrative Hearings
Actual, Estimated and Requested Expenditures
(Operating Trust Fund unless otherwise noted)

Adjudication of Disputes

	Actual Expenditures <u>FY 2017-18</u>	Estimated Expenditures <u>FY 2018-19</u>	Requested Expenditures <u>FY 2019-20</u>
<u>Appropriation Category</u>			
Salaries and Benefits	\$7,089,074	\$7,222,391	\$7,246,512
Other Personal Services	\$0	\$18,082	\$18,082
Expenses	\$963,573	\$1,018,147	\$1,018,147
Operating Capital Outlay	\$64,677	\$65,000	\$65,000
Special Categories			
Contracted Services	\$203,677	\$200,495	\$200,495
Contracted Legal Svcs.	\$44	\$1,000	\$1,000
Risk Mgmt. Ins.	\$23,454	\$16,782	\$16,782
Lease/Purch/Equip	\$15,367	\$24,000	\$24,000
TR/DMS/HR SVCS	<u>\$20,272</u>	<u>\$20,135</u>	<u>\$20,135</u>
Total Program Budget	<u>\$8,380,138</u>	<u>\$8,586,032</u>	<u>\$8,610,153</u>
Total Program Positions	65	65	65

Workers' Compensation Appeals

	Actual Expenditures <u>FY 2017-18</u>	Estimated Expenditures <u>FY 2018-19</u>	Requested Expenditures <u>FY 2019-20</u>
<u>Appropriation Category</u>			
Salaries and Benefits	\$13,620,022	\$14,103,552	\$15,261,994
Other Personal Services	\$0	\$17,836	\$17,836
Expenses	\$2,835,646	\$2,720,842	\$2,872,325
Operating Capital Outlay	\$94,899	\$64,916	\$64,916
Special Categories			
Contracted Services	\$1,006,574	\$1,008,324	\$1,008,324
Contracted Legal Svcs.	\$5,645	\$1,279	\$1,279
Tenant Broker Commissions	\$15,457	\$0	\$0
Risk Mgmt. Ins.	\$80,989	\$84,376	\$84,376
Lease/Purchase/Equip	\$19,889	\$34,000	\$34,000
TR/DMS/HR SVCS	<u>\$59,061</u>	<u>\$58,662</u>	<u>\$58,662</u>
Total Program Budget	<u>\$17,738,182</u>	<u>\$18,093,787</u>	<u>\$19,403,712</u>
Total Program Positions	176	175	175

TOTAL DIVISION BUDGET	<u>\$26,118,320</u>	<u>\$26,679,819</u>	<u>\$28,013,865</u>
TOTAL DIVISION POSITIONS	241	240	240

2019 DOAH ANNUAL REPORT

#: 46

PERIOD: *July 1, 2018 - June 30, 2019*

DATE: January 30, 2020

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: John MacIver, Chief Judge

PAGES: 28

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2019



STATE OF FLORIDA

DIVISION OF ADMINISTRATIVE HEARINGS



January 30, 2020

FORTY-SIXTH ANNUAL REPORT

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**DIVISION OF ADMINISTRATIVE HEARINGS
FORTY-SIXTH ANNUAL REPORT**

INTRODUCTION

This report is submitted to the Joint Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of section 120.65(8), Florida Statutes, which provides:

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.

(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).

GENERAL

The Division of Administrative Hearings (Division or DOAH) administers two programs. One, which is the subject of this report, is the Adjudication of Disputes program that operates pursuant to chapter 120. The other is the Workers' Compensation Appeals program, Office of the Judges of Compensation Claims (OJCC), which operates pursuant to chapter 440, Florida Statutes. Section 440.45(5) requires the OJCC to issue an annual report to the Governor, the House of Representatives, the Senate, The Florida Bar, and the statewide nominating commission. The OJCC annual report was submitted prior to December 1, 2019.

**DIVISION OF ADMINISTRATIVE HEARINGS
FORTY-SIXTH ANNUAL REPORT**

Accordingly, the present report will focus primarily on the Adjudication of Disputes program. However, because the headquarters element of the Division must support both programs, this report necessarily must include some information addressing the OJCC.

The Clerk's Office at the Division is constantly seeking ways to make the electronic filing and service of pleadings more streamlined and user-friendly. Additionally, the availability of the online dockets and the indexing of final orders performed by the Division, for all state agencies, is an area where improvements can be made in search engine capabilities and access of the orders to the public. The Clerk's Office has continued to update e-filing instructions on its website as e-filing evolves. Finally, eService will expand to include links to Administrative Law Judge rulings, along with the motions and/or responses.

UTILIZATION RATES

Appendix 1 breaks out by agency the utilization rates of Division resources and demonstrates, in descending order, that 12 agencies utilized 97 percent of the Division's non-contract cases docket: the Department of Revenue, the Agency for Health Care Administration, the Department of Management Services, the Department of Health, the Department of Environmental Protection, the Department of Financial Services, the Department of Business and Professional Regulation, the Department of Children and Families, the Department of Education, the Department of Economic Opportunity, the Agency for Persons with Disabilities, and the Department of Transportation. Additionally, entities such as

**DIVISION OF ADMINISTRATIVE HEARINGS
FORTY-SIXTH ANNUAL REPORT**

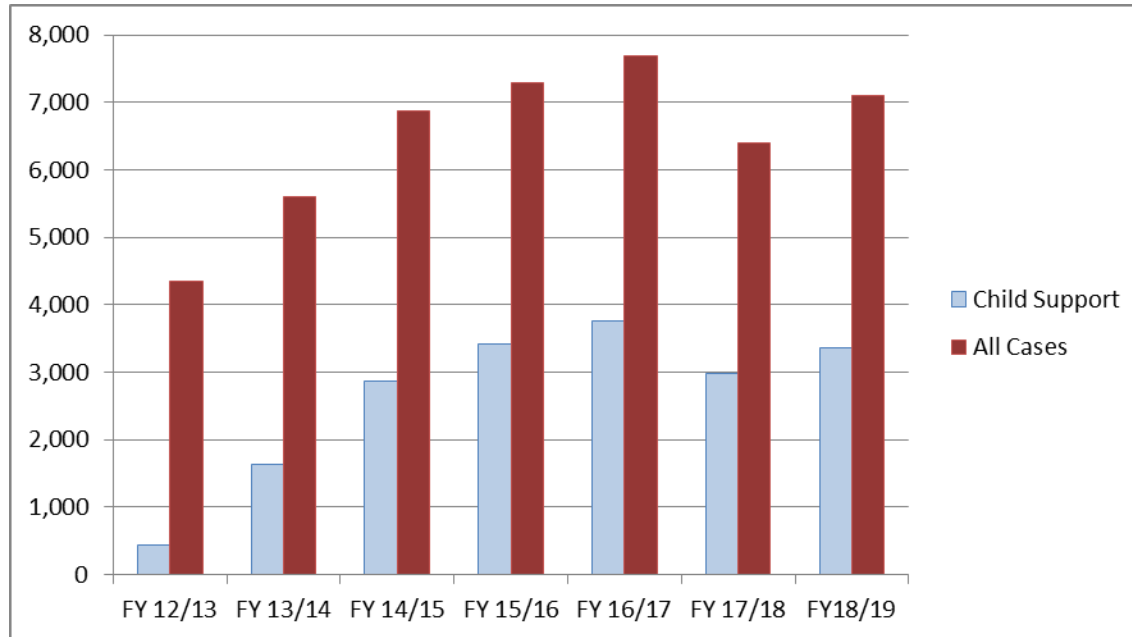
water management districts, cities, counties, school districts, and other educational entities, are significant users of the Division's services and are reported separately since they are covered by contractual agreements.

During FY 2018-19, state agencies and other governmental entities referred 7,105 requests for assignment of an Administrative Law Judge, compared to 6,393 requests filed the previous year. This is an 11 percent increase from the previous fiscal year. Requests for assignment of Administrative Law Judges from the following six agencies constitute 52 percent of our fiscal year caseload: the Agency for Health Care Administration (187 cases, an increase of 14 percent over the 164 cases filed in FY 2017-18); the Department of Business and Professional Regulation (71 cases, an increase of 4 percent over the 68 cases filed in FY 2017-18); the Department of Environmental Protection (40 cases, an increase of 54 percent over the 26 cases filed in FY 2017-18); the Department of Management Services (16 cases, an increase of 78 percent over the 9 cases filed in FY 2017-18); the Florida Department of Law Enforcement (14 cases an increase of 133 percent over the 6 cases filed in FY 2017-18); and the Department of Revenue (3,391 cases, an increase of 13 percent over the 3,009 cases filed in FY 2017-18).

In FY 2012-13, with the exception of the past year two years as explained below, the Department of Revenue, Child Support Program, has been referring cases on an upward trend. During FY 2017-18, the Department of Revenue, Child Support Program, made adjustments in personnel at the coordinator level, adding additional personnel to streamline the process of referring cases and filing rendered

**DIVISION OF ADMINISTRATIVE HEARINGS
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final orders with the Division. These personnel changes caused some downturn in the referral trend; however, the Division has noticed positive changes associated with the adjustments by the Department of Revenue.



During the past six-month period, the Department of Revenue has referred 1,691 child support cases. This appears to be a steady trend for the program.

UTILIZATION OF PERSONNEL

As of June 30, 2019, the Adjudication of Disputes program had 65 established positions, consisting of the Director and Chief Judge, the Deputy Chief Judge, 31 Administrative Law Judges, seven Administrative Secretaries, five Administrative Assistants, one Budget Officer, one Executive Assistant, two Staff Assistants, one Director of Administration, one Personnel Officer, one Purchasing Specialist, one Accounting Services Administrator, one Operations and Management Consultant, one Accountant, one Database Administrator, one

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Distributed Computer Systems Analyst, one Systems Programmer, one Clerk of the Division, two Commission Deputy Clerks, two Deputy Clerks, and two Senior Clerks. With one Administrative Secretary or Administrative Assistant assigned to three judges, this represents a highly efficient model for the adjudicatory process. Our judges utilize a minimum of administrative personnel to perform their assigned tasks, making them a largely self-sufficient group of adjudicators.

The Workers' Compensation Appeals program had 175 established positions, consisting of one Deputy Chief Judge of Compensation Claims, 31 Judges of Compensation Claims, 29 Senior Attorneys/State Mediators, 35 Deputy Clerks (includes 31 in the field offices and four in the central Clerk's Office), one Office Operations Manager, 38 Commission Deputy Clerks (includes 31 in the field offices and seven in the central Clerk's Office), five Administrative Assistants, 26 Administrative Secretaries, one Secretary Specialist, one Staff Assistant, one Clerk, one Accountant, one Court Reporter, one Distributed Computer Systems Administrator, two Distributed Computer Systems Analysts, and one Attorney. In an extremely high-volume area of the law and in recognition of the potential for an economic downturn, the program constantly seeks ways to combine staff positions and responsibilities in the interest of cost savings.

Area Changes

In September 2019, the Governor and Cabinet, sitting as the Administration Commission, appointed a new Director and Chief Judge for the Division, whose

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asserted commitment is to lead the Division and all of its Administrative Law Judges with adherence to the law as written as its foremost guiding principle.

As a second internal change at the Division, the Information and Technology Section was previously a separate section reporting to the Director and Chief Judge. Effective June 20, 2019, the Information and Technology Section was moved to the Administrative Services Section, reporting to the Director of Administration to streamline administrative operations.

HEARING REQUESTS

During FY 2018-19, the Division processed 7,105 hearing requests, compared to 6,393 hearing requests filed the previous fiscal year. Of the total hearing requests filed, 2,152 were Baker Act cases. The remaining 4,953 hearing requests were primarily filed pursuant to sections 120.56, 120.569, and 120.57(1). Most notable were the referrals from the Department of Environmental Protection, which increased its referrals by 54 percent with 40 hearing requests filed this fiscal year, compared to 26 hearing requests previously reported. Other hearing requests filed are itemized by agency in the attached Appendix 2 (Analysis for Agency Requests).

In FY 2018-19, each Administrative Law Judge conducted an average of 204 hearings and wrote an average of 94 Recommended or Final Orders of varying length and complexity. In addition, each Administrative Law Judge closed an average of 54 cases, which were settled or otherwise dismissed without a final hearing. The case closure data does not include Baker Act closures.

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INFORMATION TECHNOLOGY

The Division maintains two mission-critical databases and applications: the DOAH Case Management System (CMS) and the OJCC Case Management System (JCCa). Associated applications include full-text retrieval and document indexing of orders issued by the Division's Administrative Law Judges and Judges of Compensation Claims. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include office automation (word processing and e-mail) and online legal research via LexisNexis and other Internet resources.

Electronic Filing

During calendar year 2019, there were 31,063 documents uploaded via the eALJ filing portal; 34,168 documents were served (via email) to 117,647 parties of record. For the OJCC, 613,329 documents were uploaded via the eJCC filing portal; 789,927 documents were electronically served to 1,870,033 parties of record.

Indexing

Pursuant to section 120.53(2), all state agencies shall electronically transmit their agency final orders to the Division's website for indexing purposes, effective July 1, 2015. To date, a total of 198,645 documents have been submitted to the Agency Index Documents database, with 31,519 of those uploaded in calendar year 2019.

Cybersecurity

The Division has long been concerned with the integrity of its IT systems. This concern has grown out of a responsibility we feel to those whose private

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information is transmitted to our care through electronic means; to appropriate walls being developed to keep that private information away from all but those who are entitled to view it; and to appropriate measures being taken to ensure that the users of the Division's systems do not accidentally release confidential information to those not entitled to it or to infecting the IT systems with malware or other intrusions from outside entities that are not authorized to view confidential or proprietary information. In 2019, the Division's primary IT focus continued to be on security.

Cybersecurity awareness training provided to all Division personnel was focused on safe mobile computing and learning to recognize malicious emails. Special training sessions were also provided to judges and mediators throughout the year. We will continue to comply with all state laws and rules that may be developed, as well as our internally produced protocols to ensure the Division's IT systems are secure from both external and internal attack.

OPERATING BUDGET

The Division is 100 percent trust funded. Appendix 3 summarizes the actual, estimated, and requested expenditures for the Division's programs for FY 2018-19, FY 2019-20, and FY 2020-21, respectively.

For the Adjudication of Disputes program, each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours conducted by its judges for all agencies. Based on this data, the Division's budget is prorated among the state agencies utilizing its services, and the Legislature

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appropriates fund transfers to the Division from those agencies. Hence, the amount each agency transfers to the Division is based on the amount of time the judges spend in pre-hearing conferences, motion hearings, and final hearings for each agency in a given year. Beginning in FY 2003-04, data on cancelled and continued hearings were excluded from the report under the theory that the agencies should not be penalized for accomplishing the resolution of disputes short of proceeding to hearing. In September 2019, the Division submitted its thirty-third "Hearing Hours Held" report (*see* Appendix 1). In FY 2018-19, a total of 4,966.25 hearing hours were held.

The Division also is authorized to enter into contracts with non-state entities, such as cities, counties, regional planning councils, water management districts, school districts, and other educational entities for the provision of Administrative Law Judge services. When needed, the Division has also entered into a contract with the Florida Legislature to hear all Florida Senate claim bills that require a hearing before a Special Master. Contract organizations reimburse the Division for the costs of its services at a rate that is based on a total-cost-recovery methodology. The current contract rate is \$153 an hour, a reasonable rate for adjudicatory services by experienced lawyer-judges.

The Division has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to non-state entities. This has been accomplished by revising each year the hourly rate

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that is paid by the non-state entities for Administrative Law Judge services, by marketing the Division's services to attract new non-state entities, and by backing out these revenues before the budget is prorated among the state agencies. The assessment for administrative support that is paid by the Workers' Compensation Appeals program also is backed out before the budget is prorated. Hence, state agency transfers have been reduced by \$1.13 million in the Division's FY 2020-21 Legislative Budget Request. In the coming year, the Director and other members of the Division's staff will continue their efforts to solicit new contractual business from local government entities to further offset the cost of supporting the Division that is borne by our state agencies.

The Workers' Compensation Appeals program is supported by cash transfers from the Workers' Compensation Administration Trust Fund that is administered by the Department of Financial Services. This trust fund is funded through a workers' compensation premium tax assessment, which supports the entire workers' compensation program, not only the appeals program administered by the Division.

VIDEO-TELECONFERENCING TECHNOLOGY

Since 2009, the Division has offered video-teleconferencing capabilities in each of its 17 district offices around the state, as well as in the central offices in Tallahassee. As the Division has absorbed annual budget cuts, this capability has resulted in significant savings in costs and time, since the judges assigned to cases outside of Tallahassee are able to conduct many hearings via video, allowing them

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to maximize their office time to more timely issue the highly detailed orders that are required in administrative hearings. The video-teleconferencing technology has developed to the point where many attorneys prefer its use to a live hearing, since multiple sites may be linked for a single hearing, allowing, for example, the judge and agency representatives to be in Tallahassee, the party involved in the hearing to be in Ft. Lauderdale, and perhaps even a witness to appear in Orlando, rather than having everyone travel to one location. The Workers' Compensation Appeals program has further utilized video teleconferencing to allow judges in districts that have experienced a downturn in the number of cases filed to alleviate some of the backlog in those districts still experiencing high volume. This also allows the JCCs to move cases more quickly through the system, through the use of an available judge, rather than waiting for a judge with an overload of cases to become free. The use of video teleconferencing saves the cost of these judges traveling across the state and still provides a high-quality means of hearing the cases in a timely fashion. In addition to the use of video teleconferencing for hearings, video teleconferencing has become an invaluable training tool, allowing us to connect multiple cities to our trainers in Tallahassee, rather than sending people on the road to perform in-service training. Video teleconferencing has been a major part of conducting DOAH hearings for many years. The gradual development of our network over the past 16 years has produced a profound savings in cost for DOAH, as well as the individuals that participate in the DOAH hearing process. Although we are unable to track and account for participant savings, DOAH has realized a

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cost avoidance savings, utilizing video-teleconferencing venues vs. traveling for hearings of over \$100,000 in calendar year 2019. In addition to the savings, other benefits include the ability to move cases forward faster, enhanced security, and the ability to facilitate special needs.

RECOMMENDATIONS CONCERNING THE A.P.A.

The Division does not make any new recommendations for legislative changes to the Administrative Procedures Act (APA) at this time. The issues raised for potential change in last year's report, recapped below, continue to provide opportunities for improvement. Beyond the issues raised in last year's report, the Division is committed to carrying out its purpose and the purpose of the APA both by managing internal procedures and by continued analysis and evaluation of issues that arise under the APA.

Section 120.65 (8)(b) directs the Division to include in this report any "[r]ecommendations for change or improvement in the administrative procedures act or any agency's practice or policy with respect thereto." Recommended changes and improvements should be made with respect to the purpose and ends sought by the enactment of the APA. The primary purpose, succinctly stated by the Joint Administrative Procedures Committee in their primer to the APA, is "to allow broad citizen involvement in agency decision making as well as unbiased resolution of disputes with an administrative agency." Eliminating and guarding against bias and improving efficiencies within those disputes are the focus of the Division's analysis of potential improvement and changes to the Act.

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Efforts to eliminate and guard against bias or to improve efficiencies do not always rise to the level of recommended legislative changes. Much of the Division's effort takes place by managing the agency under the authority currently provided by the legislature and executive branch. For instance, the paramount tool that the Director of the Division has to address that stated purpose of the Act is the purposeful hiring and supervision of the Administrative Law Judges employed by the Division. The selection and supervision of Administrative Law Judges must ensure unbiased adjudication and adherence to the law as written by the legislature.

The Division's 2019 report highlighted the opportunity for the Division to provide adjudicative services to the agencies housing professional licensing boards (i.e. the Department of Business and Professional Regulation and the Department of Health) to address minor violations, involving fines and compliance only. In addition to allowing the boards to concentrate on more serious cases, these cases seem to be exactly what was contemplated by the legislature when it provided for summary hearing procedures in section 120.574. Further, should the agencies or the legislature decide to send such cases to DOAH, the Division is prepared to handle the additional caseload with its current complement of Judges and staff.

Finally, the Division closely follows judicial decisions concerning the application and interpretation of the APA, and the issues that arise while implementing legislative changes from preceding years. The Division's observation and analysis is guided by input, which is actively sought from the agencies using

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the Division's services, the Administrative Law Section of The Florida Bar, advocacy groups representing parties that appear before the Division, and parties themselves. Given recent leadership turnover at the Division, the initial focus on internal management, and that this year's legislative session is almost halfway complete, recommendations for legislation based upon those observations would be more appropriate for inclusion in the 2021 report so that they might be addressed in the subsequent legislative session.

Agency Final Orders

Pursuant to the requirement contained in section 120.65(8)(d), many agencies have improved the timeliness of filing their final orders with the Division. In this past fiscal year, 13 of the 33 reported agencies employing the services of the Division have completely or substantially complied with the 15-day filing requirement (Agency for Persons with Disabilities, Department of Agriculture and Consumer Services, Department of Children and Families, Department of Corrections, Department of Economic Opportunity, Department of Elder Affairs, Department of Environmental Protection, Department of Highway Safety and Motor Vehicles, Department of Revenue, Department of Transportation, Florida Commission on Ethics, Florida Commission on Human Relations, and Water Management Districts). Overall, of the agency final orders filed with the Division between July 1, 2018, and June 30, 2019, 43 percent were filed within 15 days of entry by the agency. The Division once again intends to remind the agencies of the

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statutory requirement to timely file their final orders. Filing these final orders electronically makes the task a simple one for the agencies.

Indexing of Final Orders

Finally, in 2015, the Administrative Law Section was successful in having legislation passed to require all agencies to file their final orders with the Division for indexing and retrieval. The Legislature designated the Division as the centralized electronic database for indexing agency final orders pursuant to section 120.53. All agencies now electronically transmit a certified text-searchable copy of each agency final order as described in section 120.53(2), which was rendered on or after the effective date. Also, the agencies may electronically transmit certified copies of all of the final orders, which were required to be in the subject matter index and rendered prior to July 1, 2015, for the Division to keep and make those orders available to the public in a searchable database. Thirty-one agencies (Executive Office of the Governor, Department of Agriculture and Consumer Services, Department of Financial Services, Office of Financial Regulation, Office of Insurance Regulation, Agency for Health Care Administration, Agency for Persons with Disabilities, Department of Business and Professional Regulation, Department of Children and Families, Department of Corrections, Commission on Offender Review, Department of Economic Opportunity (DEO), Department of Community Affairs (prior to DEO), Florida Housing Finance Corporation, Department of Education, Department of Environmental Protection, Department of Health, Department of Highway Safety and Motor Vehicles, Department of Law

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Enforcement, Department of Management Services, Department of State, Florida Elections Commission, Florida Commission on Ethics, Public Employee Relations Commission, Public Service Commission, County School Boards, Department of Lottery, Department of Transportation, State Board of Administration, Department of Revenue, and Water Management Districts) have already taken advantage of this service.

CONCLUSION

The Division continues to supply timely, high-quality adjudication of disputes pursuant to chapter 120, the Administrative Procedure Act. The Division is committed to focusing on the unbiased adjudication of disputes by prioritizing the principle that the Administrative Law Judges follow the law as written by the legislature. Further, the Division continues to seek ways to make the process more affordable to state agencies and citizens, and continues to expand its base to counties, cities, and other users of its program in order to reduce the cost of providing services. The Division is mindful of the cost of proceeding to hearing and seeks to minimize any potential delays in moving cases through the system. This ensures that individuals, small businesses, and major corporations reduce the cost, time, and opportunity lost through judicial delay. By helping matters move through the Division in an expeditious manner, both the cost of litigation and the time lost in the pursuit of a remedy are reduced.

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To conclude, we shall continue to be resolute in our provision of efficient and unbiased adjudication of administrative disputes, following the dictates of the APA and governing regulatory statutes, read and applied plainly as written by the legislature.

Respectfully submitted,



JOHN MACIVER
Director and Chief Judge

JM/lds

6/30/2019

Appendix 1

HEARING HOURS HELD REPORT
FY 2018-2019
For the Period 07/01/18 through 6/30/2019

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	PRORATED AMOUNT OF FY 2020-21 LBR
AGR	0.50	0.00	5.75	6.25	0.16510%	\$12,456
AHCA	17.25	15.75	540.00	573.00	15.13671%	\$1,142,013
APD	1.75	0.00	34.50	36.25	0.95760%	\$72,248
CIT	0.00	0.00	0.00	0.00	0.00000%	\$0
COR	0.25	1.00	11.75	13.00	0.34342%	\$25,909
DBPR	8.50	10.75	79.50	98.75	2.60864%	\$196,813
DCF	3.75	0.00	89.00	92.75	2.45014%	\$184,855
DEO	2.00	3.25	39.00	44.25	1.16893%	\$88,192
DEP	1.50	5.50	103.50	110.50	2.91903%	\$220,231
DFS	5.75	2.75	94.00	102.50	2.70770%	\$204,287
DLA	0.00	0.00	0.00	0.00	0.00000%	\$0
DLE	0.00	1.25	19.75	21.00	0.55475%	\$41,854
DMA	0.00	0.00	0.00	0.00	0.00000%	\$0
DMS	16.75	9.25	287.25	313.25	8.27500%	\$624,320
DOE	4.25	3.00	79.00	86.25	2.27843%	\$171,900
DOH	6.25	12.50	241.50	260.25	6.87492%	\$518,689
DOS	0.00	0.00	0.00	0.00	0.00000%	\$0
DOT	1.50	2.00	24.25	27.75	0.73306%	\$55,307
ELDER	0.00	0.25	11.50	11.75	0.31039%	\$23,419
ETH	0.00	0.00	14.50	14.50	0.38304%	\$28,899
FEC	0.00	0.00	0.00	0.00	0.00000%	\$0
FWCC	0.75	0.75	2.00	3.50	0.09246%	\$6,976
GOV	0.00	0.00	3.00	3.00	0.07925%	\$5,979
HSM	3.25	2.50	1.50	7.25	0.19152%	\$14,449
JUV	0.25	0.00	16.50	16.75	0.44248%	\$33,383
LOT	0.00	0.00	0.00	0.00	0.00000%	\$0
PSC	1.50	0.00	23.00	24.50	0.64721%	\$48,829
REV	1.25	4.00	1906.75	1912.00	50.50852%	\$3,810,695
STA	0.00	3.50	3.00	6.50	0.17171%	\$12,955
VET	0.00	0.00	0.00	0.00	0.00000%	\$0
TOTAL:	77.00	78.00	3630.50	3785.50	100.00000%	\$7,544,658

NOTE: Hearing hours held in contract cases (water management districts, regional planning councils, cities, counties, school district/educational entity cases, etc.), NICA cases, and other miscellaneous cases are reported separately.

*Prior to prorating among state agencies, DOAH's FY 2020-21 Legislative Budget Request totaling \$8,675,106 was adjusted to reflect estimated revenue of \$523,476 from contract entities, payment of \$685,736 from the Workers' Compensation Appeals Program for general management and administrative services costs, estimated revenue of \$16,610 from cases filed pursuant to Chapter 403, Florida Statutes, and the estimated nonoperating cost of \$95,374 for state agency video teleconferencing hearings.

6/30/2019

Appendix 1

HEARING HOURS HELD BY CONTRACT/EDUCATIONAL/OTHER AGENCIES
FY 2018-2019

For the Period 07/01/18 through 6/30/19

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	FINAL HEARING	TOTAL HOURS	% OF HOURS ALL AGENCIES
CONTRACT	2.75	2.50	204.00	209.25	17.72179%
EPP	0.00	0.00	35.00	35.00	2.96422%
TL	0.00	0.00	0.00	0.00	0.00000%
BA	0.00	0.00	354.25	354.25	30.00212%
GM	1.00	10.25	83.00	94.25	7.98221%
MA	0.50	0.25	52.50	53.25	4.50985%
NICA	2.00	0.25	14.75	17.00	1.43976%
OTHER	0.75	0.00	0.00	0.75	0.06352%
SENATE CLAIM	0.00	0.00	0.00	0.00	0.00000%
SCHBDS	32.00	17.50	367.50	417.00	35.31654%
TOTAL:	39.00	30.75	1111.00	1180.75	100.00000%

CONTRACT: Water Management Districts, Regional Planning Councils, Cities, Counties, etc., as specified in § 120.65(9), Fla. Stat.

EPP: Electrical Power Plant siting cases filed by DEP, pursuant to Ch. 403, Fla. Stat.

TL: Transmission line siting cases filed by DEP, pursuant to Ch. 403, Fla. Stat.

BA: Baker Act

GM: Growth Management cases filed by individuals, pursuant to § 163.3184(5), Fla. Stat.

MA: Medical Arbitration

NICA: Florida Birth-Related Neurological Injury Compensation Association

OTHER: Noncontract entities such as Victims of Wrongful Incarceration Compensation Act

SENATE CLAIM BILLS: Excess judgment claims and equitable claims, pursuant to Senate Rules 4.81

SCHBDS: School boards and other educational entities specified in § 120.65(9), Fla. Stat.

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2018 - 2019

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	7	2	9
Division of Licensing	0	1	1
Agency Total	7	3	10
Agency for Persons with Disabilities			
Agency for Persons with Disabilities	2	2	4
License	2	4	6
Agency Total	4	6	10
Department of Children and Family Services			
Department of Children and Family Services	1	19	20
Exemption Ch. 435, position of special trust	8	18	26
Family Safety and Preservation Programs	30	42	72
Office of Licensure and Certification	2	0	2
Non-Baker Act Total	41	79	120
Contract Hearings			
City of Gainesville	1	0	1
Code Enforcement	1	2	3
City of Tampa General Employees Retirement Fund	0	1	1
Emerald Coast Utilities Authority	1	1	2
Monroe County	1	2	3
Pinellas County	1	1	2
South Broward Hospital District	1	0	1
Sunshine State One-Call of Florida	0	1	1
Agency Total	6	8	14
Florida Commission on Human Relations			
Florida Commission on Human Relations	73	38	111
Fair Housing Act	11	6	17
Agency Total	84	44	128
Commissions			
Florida Commission on Ethics	0	5	5
Agency Total	0	5	5
Department of Corrections			
Department of Corrections	1	1	2
Agency Total	1	1	2
County School Boards			
Bradford County School Board	0	1	1
Brevard County School Board	8	2	10
Broward County School Board	18	30	48
Charlotte County School Board	1	0	1
Collier County School Board	0	1	1
Columbia County School Board	0	1	1
Miami-Dade County School Board	23	23	46
DeSoto County School Board	0	1	1
Duval County School Board	4	5	9
Gilchrist County School Board	0	1	1
Hamilton County School Board	1	0	1
Hernando County School Board	1	2	3

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2018 - 2019

AGENCY	Jul-Dec	Jan-June	TOTAL
Highlands County School Board	1	0	1
Hillsborough County School Board	4	6	10
Indian River County School Board	0	1	1
Lake County School Board	3	1	4
Lee County School Board	0	1	1
Leon County School Board	7	6	13
Madison County School Board	1	0	1
Manatee County School Board	0	6	6
Marion County School Board	1	3	4
Monroe County School Board	2	1	3
Nassau County School Board	1	2	3
Okaloosa County School Board	1	0	1
Orange County School Board	13	12	25
Osceola County School Board	2	2	4
Palm Beach County School Board	9	16	25
Section 504 cases	2	3	5
Pasco County School Board	4	3	7
Pinellas County School Board	2	1	3
Polk County School Board	7	5	12
St Johns County School Board	5	1	6
St Lucie County School Board	5	3	8
Santa Rosa County School Board	0	6	6
Sarasota County School Board	1	5	6
Seminole County School Board	4	6	10
Union County School Board	0	1	1
Volusia County School Board	5	1	6
Walton County School Board	0	1	1
Charter Schools Non-renewal or Terminating	1	1	2
Agency Total	137	161	298
Department of Elder Affairs			
Department of Elder Affairs	2	0	2
Agency Total	2	0	2
Department of Economic Opportunity			
Department of Economic Opportunity	7	4	11
Agency Total	7	4	11
Department of Environmental Protection			
Department of Environmental Protection	10	30	40
Agency Total	10	30	40
Department of Financial Services			
Department of Financial Services	2	1	3
Division of Insurance Agent and Agency Services	1	7	8
Division of Unclaimed Property	2	1	3
Division of State Fire Marshal	1	0	1
Division of Funeral, Cemetery, and Consumer Service	7	4	11
Division of Workers` Compensation	127	38	165
Agency Total	140	51	191
Department of Health			
Department of Health	13	5	18
Board of Chiropractic	5	1	6
Board of Clinical Social Work, Marriage and Family	1	0	1

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2018 - 2019

AGENCY	Jul-Dec	Jan-June	TOTAL
Board of Dentistry	6	6	12
Environmental Health	0	3	3
Bureau of Emergency Medical Services	0	2	2
Board of Medicine	10	10	20
Board of Massage Therapy	7	9	16
Board of Nursing Home Administrators	0	1	1
Board of Nursing	4	13	17
Board of Opticianry	1	1	2
Board of Optometry	1	0	1
Board of Osteopathic Medicine	1	0	1
Board of Pharmacy	1	0	1
Board of Physical Therapy Practice	0	1	1
Board of Respiratory Therapy	1	0	1
Agency Total	51	52	103
Department of Juvenile Justice			
Department of Juvenile Justice	3	5	8
Agency Total	3	5	8
Department of Law Enforcement			
Department of Law Enforcement	1	0	1
Criminal Justice Standards and Training Commission	5	7	12
Medical Examiners Commission	0	1	1
Agency Total	6	8	14
Department of Management Services			
Department of Management Services	0	1	1
Division of State Group Insurance	4	0	4
Division of Retirement	3	8	11
Agency Total	7	9	16
Division of Administrative Hearings			
Division of Administrative Hearings	0	2	2
Agency Total	0	2	2
Department of Education			
Department of Education	3	4	7
Division of Blind Services	2	1	3
Commission for Independent Education	1	0	1
Confidential Vocational Rehabilitation Cases	1	9	10
Education Practices Commission	62	34	96
Vocational Rehabilitation Services	3	1	4
Agency Total	72	49	121
Department of Transportation			
Department of Transportation	4	10	14
Agency Total	4	10	14
Department of Business and Professional Regulation			
Department of Business and Professional Regulation	1	0	1
Board of Architecture	3	1	4
Regulatory Council of Community Assoc. of Managers	1	0	1
Construction Industry Licensing Board	3	5	8
Division of Alcoholic Beverages and Tobacco	5	1	6
Division of Real Estate	2	0	2

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2018 - 2019

AGENCY	Jul-Dec	Jan-June	TOTAL
Electrical Contractors Licensing Board	0	1	1
Florida Real Estate Appraisal Board	1	0	1
Florida Real Estate Commission	0	5	5
Division of Land Sales, Condominiums, and Mobile H	1	0	1
Non-licensed Respondent	5	2	7
Division of Pari-Mutuel Wagering	19	11	30
Board of Professional Engineers	1	3	4
Agency Total	42	29	71
Florida Commission on Ethics			
Florida Commission on Ethics	4	9	13
Agency Total	4	9	13
Florida Elections Commission			
Florida Elections Commission	1	2	3
Agency Total	1	2	3
Florida Housing Finance Corporation			
Florida Housing Finance Corporation	1	15	16
Agency Total	1	15	16
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	4	6	10
Agency Total	4	6	10
Growth Management (No Agency)			
Growth Management (No Agency)	15	7	22
Agency Total	15	7	22
Office of the Governor			
Florida Land and Water Adjudicatory Commission, Co	1	0	1
Agency Total	1	0	1
Agency for Health Care Administration			
Agency for Health Care Administration	41	24	65
Office of Certificate of Need	9	17	26
Medicaid Cost Reimbursement	5	0	5
Medicaid Program Integrity	15	12	27
Office of Licensure and Certification	38	26	64
Agency Total	108	79	187
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	5	10	15
Section 320.642	15	14	29
Agency Total	20	24	44
Medical Arbitration			
Medical Arbitration	4	15	19
Agency Total	4	15	19
Florida Birth-Related Neurological Injury Compensation			
Florida Birth-Related Neurological Injury Compensa	23	21	44
Agency Total	23	21	44

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2018 - 2019

AGENCY	Jul-Dec	Jan-June	TOTAL
Office of Financial Regulation			
Office of Financial Regulation	0	4	4
Agency Total	0	4	4
Office of Insurance Regulation			
Office of Insurance Regulation	1	0	1
Agency Total	1	0	1
Public Service Commission			
Public Service Commission	1	0	1
Agency Total	1	0	1
Department of Revenue			
Department of Revenue	14	13	27
Child Support Enforcement (payment, lien, levy)	0	1	1
Child Support Enforcement Program	1,621	1,742	3,363
Agency Total	1,635	1,756	3,391
State Board of Administration			
State Board of Administration	1	1	2
Agency Total	1	1	2
State Attorney			
State Attorney	2	0	2
Agency Total	2	0	2
Water Management Districts			
South Florida Water Management District	2	5	7
St. Johns River Water Management District	3	0	3
Suwannee River Water Management District	1	0	1
Southwest Florida Water Management District	0	2	2
Agency Total	6	7	13
NON BAKER ACT TOTAL	2,451	2,502	4,953

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2018 - 2019

AGENCY	Jul-Dec	Jan-June	TOTAL
Baker Acts			
Apalachee Center Inc.	2	0	2
David Lawrence Center	1	0	1
Department of Veterans Affairs	3	3	6
Florida State Hospital	211	214	425
Florida Women's Reception Center	5	4	9
James A. Harley VA Hospital	1	1	2
Lake Correctional Institution	4	9	13
Lake Wales Medical Center Golden Care Unit	0	2	2
Lakeland Regional Health	0	1	1
Largo Medical Center, Indian Rocks	3	0	3
Life Management Center of Northwest Florida	0	1	1
Mease Dunedin Hospital	9	1	10
Medical Center of Trinity West Pasco Campus	2	0	2
Mental Health Care, Inc. d/b/a Gracepoint	2	0	2
Meridian Behavioral Healthcare, Inc.	7	0	7
Morton Plant Hospital	4	0	4
North Florida Regional Medical Center	3	3	6
Northeast Florida State Hospital	399	567	966
Northside Mental Health Center	1	0	1
Peace River Center	12	7	19
Personal Enrichment Mental Health Services	5	1	6
Saint Anthony's Hospital	1	2	3
Salus Care	1	0	1
Shands at Vista	1	0	1
St. Joseph's Behavioral Health Center	3	1	4
Suwannee Correctional Institution	0	3	3
Tampa Community Hospital	1	0	1
The Centers	3	0	3
Wellpath Recovery Solutions	270	287	557
Wellpath Recovery Solutions Arcadia	1	1	2
West Florida Community Care Center	50	38	88
Windmoore Healthcare of Clearwater	1	0	1
Baker Act Total	1,006	1,146	2,152

SUMMARY
Division of Administrative Hearings
Actual, Estimated and Requested Expenditures
(Operating Trust Fund unless otherwise noted)

Adjudication of Disputes

<u>Appropriation Category</u>	Actual Expenditures <u>FY 2018-19</u>	Estimated Expenditures <u>FY 2019-20</u>	Requested Expenditures <u>FY 2020-21</u>
Salaries and Benefits	\$7,119,229	\$7,285,376	\$7,302,100
Other Personal Services	\$870	\$18,082	\$18,082
Expenses	\$1,000,962	\$1,018,147	\$1,018,147
Operating Capital Outlay	\$64,893	\$65,000	\$65,000
Special Categories			
Contracted Services	\$204,907	\$200,495	\$200,495
Contracted Legal Svcs.	\$3,023	\$1,000	\$1,000
Risk Mgmt. Ins.	\$16,782	\$26,072	\$26,072
Lease/Purch/Equip	\$9,801	\$24,000	\$24,000
TR/DMS/HR SVCS	<u>\$20,135</u>	<u>\$20,210</u>	<u>\$20,210</u>
Total Program Budget	<u>\$8,440,602</u>	<u>\$8,658,382</u>	<u>\$8,675,106</u>
Total Program Positions	65	65	65

Workers' Compensation Appeals

<u>Appropriation Category</u>	Actual Expenditures <u>FY 2018-19</u>	Estimated Expenditures <u>FY 2019-20</u>	Requested Expenditures <u>FY 2020-21</u>
Salaries and Benefits	\$13,876,692	\$14,289,414	\$14,331,282
Other Personal Services	\$16,270	\$17,836	\$17,836
Expenses	\$2,914,535	\$2,864,842	\$2,864,842
Operating Capital Outlay	\$64,851	\$64,916	\$64,916
Special Categories			
Contracted Services	\$973,960	\$1,008,324	\$1,008,324
Contracted Legal Svcs.	\$1,183	\$1,279	\$1,279
Tenant Broker Commissions	\$163,905	\$0	\$0
Risk Mgmt. Ins.	\$84,376	\$97,430	\$97,430
Lease/Purchase/Equip	\$24,774	\$34,000	\$34,000
TR/DMS/HR SVCS	<u>\$58,662</u>	<u>\$58,879</u>	<u>\$58,879</u>
Total Program Budget	<u>\$18,179,208</u>	<u>\$18,436,920</u>	<u>\$18,478,788</u>
Total Program Positions	176	175	175

TOTAL DIVISION BUDGET	<u>\$26,619,810</u>	<u>\$27,095,302</u>	<u>\$27,153,894</u>
TOTAL DIVISION POSITIONS	241	240	240

2020 DOAH ANNUAL REPORT

#: 47

PERIOD: *July 1, 2019 - June 30, 2020*

DATE: February 1, 2021

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Peter Antonacci, Chief Judge

PAGES: 15

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2020





**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

February 1, 2021
FORTY-SEVENTH ANNUAL REPORT

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**DIVISION OF ADMINISTRATIVE HEARINGS
FORTY-SEVENTH ANNUAL REPORT**

INTRODUCTION

This report is submitted to the Joint Administrative Procedures Committee and the Administration Commission in compliance with the requirements of section 120.65(8), Florida Statutes, which provides:

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.
- (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).

GENERAL

The Division of Administrative Hearings (Division or DOAH) administers two programs. One, the subject of this report, is the Adjudication of Disputes program that operates pursuant to the APA. The other is the Workers' Compensation Appeals program, which operates pursuant to chapter 440, Florida Statutes. Section 440.45(5) requires the Office of the Judges of Compensations Claims (OJCC) to issue an annual report. The OJCC annual report was submitted timely in 2020. Accordingly, this report will focus on DOAH's Adjudication of Disputes program. However, because DOAH's headquarters administratively supports both programs, this report includes some information pertaining to the OJCC.

DOAH endeavors to make the electronic filing and the service of pleadings and documents more user-friendly. Additionally, the availability of the online dockets and the indexing of final orders performed by the Division, for all users, is an area where improvements can be made in search engine capability. DOAH's Clerk's Office has continued to update e-filing instructions on its website as e-filing

**DIVISION OF ADMINISTRATIVE HEARINGS
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evolves. Finally, eService will expand to include links to Administrative Law Judge orders, along with motions and responses.

UTILIZATION RATES

Eleven agencies utilized 96 percent of DOAH's non-contract case docket:

- Department of Revenue,
- Department of Management Services,
- Agency for Health Care Administration,
- Department of Children and Families,
- Department of Environmental Protection,
- Department of Education,
- Department of Health,
- Department of Business and Professional Regulation,
- Department of Financial Services,
- Department of Transportation,
- the Department of Economic Opportunity.

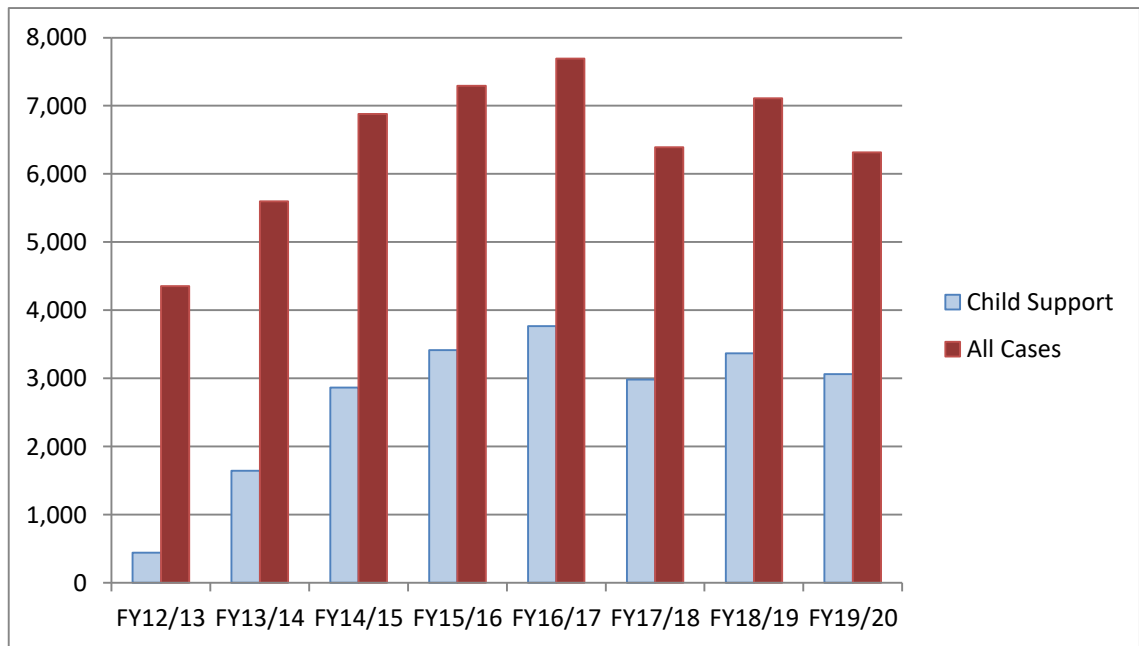
Entities such as water management districts, cities, counties, school districts, and other educational entities, are significant users of DOAH's services and are reported separately since these are contractual services.

During FY 2019-20, state agencies and other governmental entities referred 6,316 requests for assignment of an Administrative Law Judge, compared to 7,105 requests filed the previous year. This is a 11 percent decrease from the previous fiscal year. This downturn is certainly due to the consequences of COVID-19. Nonetheless, requests for assignment of Administrative Law Judges from the following six agencies had increased:

Department of Corrections (6 cases);
State Board of Administration (5 cases);
Florida Wildlife Conservation Commission (21 cases);
Department of Management Services (25 cases);
Department of Agriculture and Consumer Services (15 Cases).

Since FY 2012-13, with the exception of some fluctuation of the past three, the Department of Revenue, Child Support Program, has been increasing its DOAH referrals. During FY 2017-18, the Child Support Program streamlined the process of referring cases and rendering final orders. Accordingly, DOR referrals to DOAH have trended upward.

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During the past six-month period, the Department of Revenue has referred 1,069 child support cases. This appears to be a part of the steady upward trend of such referrals.

UTILIZATION OF PERSONNEL

As of June 30, 2020, the Adjudication of Disputes program had 65 established positions, consisting of the Director and Chief Judge, the Deputy Chief Judge, 31 Administrative Law Judges, seven Administrative Secretaries, five Administrative Assistants, one Budget Officer, one Executive Assistant, two Staff Assistants, one Director of Administration, one Human Resource Manager, one Purchasing Specialist, one Accounting Services Administrator, one Operations and Management Consultant, one Accountant, one Database Administrator, one Distributed Computer Systems Analyst, one Systems Programmer, one Clerk of the Division, two Commission Deputy Clerks, two Deputy Clerks, and two Senior Clerks. With one Administrative Secretary or Administrative Assistant assigned to three judges, this represents a highly efficient model for the adjudicatory process. DOAH judges utilize a minimum of administrative personnel to perform their assigned tasks, making them relatively self-sufficient.

The Workers' Compensation Appeals program had 175 established positions in 17 statutorily mandated locations, consisting of one Deputy Chief Judge of Compensation Claims, 31 Judges of Compensation Claims, 30 State Mediators, 35 Deputy Clerks, one Office Operations Manager, 38 Commission Deputy Clerks, five Administrative Assistants, 24 Administrative Secretaries, one Secretary Specialist, one Personnel Technician, one Clerk, two Accountants, one Court Reporter, one

DIVISION OF ADMINISTRATIVE HEARINGS FORTY-SEVENTH ANNUAL REPORT

Distributed Computer Systems Administrator, two Distributed Computer Systems Analysts, and one Attorney. In this high-volume practice area and in recognition of the potential for an economic downturn, the program seeks ways to combine staff positions and responsibilities in the interest of efficiency and cost savings.

HEARING REQUESTS

During FY 2019-20, the Adjudication of Disputes program processed 6,316 hearing requests, compared to 7,105 hearing requests filed the previous fiscal year. Of the total hearing requests filed, 1,944 were Baker Act cases. The remaining 4,372 hearing requests were primarily filed pursuant to sections 120.56, 120.569, and 120.57(1). Hearing requests filed are itemized by agency in the attached Appendix 1.

In FY 2019-20, each Administrative Law Judge conducted an average of 222 hearings and wrote an average of 101 Recommended or Final Orders of varying length and complexity. In addition, each Administrative Law Judge closed an average of 40 cases (excluding Baker Act), which were settled or otherwise dismissed without a final hearing.

INFORMATION TECHNOLOGY

The Division maintains two mission-critical databases and applications: the ALJ Case Management System (CMS) and the OJCC Case Management System (JCCa). Associated applications include full-text retrieval and document indexing of orders issued by the DOAH's Administrative Law Judges and Judges of Compensation Claims. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include office automation (word processing and e-mail) and online legal research via Westlaw and other Internet resources.

Electronic Filing

During calendar year 2020, there were 31,739 documents uploaded via the eALJ filing portal; 37,984 documents were served (via email) to 125,804 parties of record. For the OJCC, 577,410 documents were uploaded via the eJCC filing portal; 763,919 documents were electronically served to 1,881,578 parties of record.

Indexing

Pursuant to section 120.53(2), all state agencies are required to electronically transmit their agency Final Orders to DOAH's website for indexing purposes. To date, a total of 222,057 documents have been submitted to the Agency Index Documents database, with 22,601 of those uploaded in calendar year 2020.

**DIVISION OF ADMINISTRATIVE HEARINGS
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Cybersecurity

DOAH has long been concerned with the integrity of its IT systems. This concern has grown out of the general responsibility to those whose private information comes into DOAH's possession through electronic means; to appropriate walls being developed to keep that private information separate from all but those who are entitled to it; and to appropriate measures being taken to ensure that the users of the Division's systems do not accidentally release confidential information to those not entitled to it or to infecting the IT systems with malware or other intrusions . In 2020, a primary IT focus continued to be security.

Cybersecurity awareness training provided to all DOAH personnel was focused on safe mobile computing and learning to recognize malicious emails. Special training sessions were also provided to judges and mediators throughout the year. DOAH will continue to comply with all state law that may be developed, as well as internally produced protocols to ensure DOAH's IT systems are secure from both external and internal attack.

OPERATING BUDGET

In the past DOAH has reported to the Legislature and the Governor's Office the total number of hearing hours conducted by Administrative Law Judges for all agencies. Based on this data, the Division's budget is prorated among the state agencies utilizing its services, and the Legislature appropriates fund transfers to DOAH from those agencies. Hence, the amount each agency transfers to DOAH is based on the hours judges use for hearings for each agency in a given year. In FY 2019-20, Administrative Law Judges heard cases during 4,475 hours. Because the "hearing hour" metric has proven flawed for proration purposes, DOAH plans to propose a more accurate, realistic metric for future proration and funding decisions.

DOAH also is authorized to enter into contracts with non-state entities, such as cities, counties, regional planning councils, water management districts, school districts, and other educational entities for the provision of Administrative Law Judge services. DOAH has also contracted with the Florida Senate to hear Senate claim bills that require a Special Master. Contract entities reimburse DOAH for the costs of its services at a rate based on a total-cost-recovery methodology. DOAH has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to non-state entities. This has been accomplished by revising each year the hourly rate that is paid by the non-state entities for Administrative Law Judge services, by marketing the Division's services to attract new non-state entities, and by backing out these revenues before the budget is prorated among the state agencies. The portion of administrative support that is paid by the Workers' Compensation Appeals program also is

**DIVISION OF ADMINISTRATIVE HEARINGS
FORTY-SEVENTH ANNUAL REPORT**

deducted before the budget is prorated. In the coming year, DOAH management will continue efforts to solicit new business from local governments and others to further offset the cost of supporting DOAH.

The Workers' Compensation Appeals program is supported by appropriated transfers from the Workers' Compensation Administration Trust Fund administered by the Department of Financial Services. This trust fund receives monies from a workers' compensation premium tax assessment, which supports the entire workers' compensation program. DOAH's expenditure data, actual and requested is attached. Appendix 2

VIDEO-TELECONFERENCING TECHNOLOGY (VTC)

Since 2009, DOAH has offered video-teleconferencing capabilities in each of its 17 OJCC district offices around the state, as well as in the central offices. This capability has yielded significant savings in costs and time, since the judges assigned to cases outside of Tallahassee conduct VTC hearings, allowing them to maximize their office time for the highly detailed orders required in the administrative practice. VTC has developed to the point where many attorneys prefer its use to a live hearing, since multiple sites may be linked for a single hearing, allowing, for example, the judge and agency representatives to be in headquarter, the party involved in the hearing to be in Ft. Lauderdale, and a witness to appear in Orlando, rather than all traveling to one location. The Workers' Compensation Appeals program has further utilized video teleconferencing to allow judges in districts that have experienced decreased filings to alleviate some of the backlog in those districts experiencing high volume. This also allows the OJCC to process cases efficiently, through the use of an available judge, rather than waiting for a judge with an overload of cases to become free. The use of video teleconferencing saves the cost of judges traveling across the state and still provides a high-quality means of a timely hearing cases. In addition to the use of for hearings, VTC has become a valuable training tool, allowing connection with multiple cities for trainers of all sort, rather than sending people on the road to perform in-person training.

The gradual development of the VTC network over the past 17 years has produced a significant cost savings in cost for taxpayers, as well as the individuals that participate in the DOAH hearing process. In addition to the savings, other benefits include the ability to move cases forward faster, enhanced security, and the ability to facilitate special needs.

Due to COVID-19, in 2020, DOAH's video conference platform was little used due to social distancing enforcement. As an alternative, the Zoom platform was used predominantly in 2020. Zoom and related technology will significantly change the way both DOAH programs are operated in the future.

**DIVISION OF ADMINISTRATIVE HEARINGS
FORTY-SEVENTH ANNUAL REPORT**

ZOOM TECHNOLOGY

Due to the COVID-19 pandemic, in March, 2020, DOAH began using Zoom Video Communication, Inc. web-based technology to conduct hearings in lieu of in-person or VTC hearings. Utilizing Zoom for hearings has resulted in a viable platform for parties appearing before DOAH. On account of Zoom DOAH has been able to provide continuous adjudication services to users since the beginning of the pandemic. Preliminary reports from the Bar and agencies regarding Zoom hearings has been overall positive.

RECOMMENDATIONS CONCERNING THE A.P.A.

DOAH makes no new recommendations for legislative amendment to the Administrative Procedures Act (APA). The issues raised for potential change in the 2019 report (respectively filing and indexing Final Agency Orders), continue to provide opportunity for improvement. Beyond those issues, DOAH is committed to carrying out its legislative purpose by managing internal procedures and analysis and evaluation of issues that arise under the APA.

CONCLUSION

DOAH continues to offer timely, high-quality adjudication of disputes services pursuant to the Administrative Procedure Act. DOAH is committed to focusing on objective adjudication of disputes by prioritizing the principle that the Administrative Law Judges follow the law as written by the legislature. Further, DOAH continues to seek ways to make the process more affordable, and continues to expand its services to counties, cities, and others in order to reduce the cost of providing services. DOAH is mindful of the costs to parties of proceeding to hearing and seeks to minimize delays in moving cases through the system. This ensures that individuals, businesses and agencies, experience reduced cost, time, and opportunity lost. By facilitating cases through the process in an expeditious manner, both the cost of litigation and the time lost in the pursuit of a resolution are reduced.

DOAH's Administrative Law Judges look forward to the 48th year of applying the law as written to the facts of disputes referred for speedy adjudication.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'P. Antonacci', with a long horizontal flourish extending to the right.

PETER ANTONACCI
Director and Chief Judge

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2019 - 2020

AGENCY	Jul-Dec	Jan-June	TOTAL
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	6	6	12
Division of Licensing	1	2	3
Agency Total	7	8	15
Agency for Persons with Disabilities			
Agency for Persons with Disabilities	6	3	9
License	5	15	20
Agency Total	11	18	29
Department of Children and Family Services			
Department of Children and Family Services	4	1	5
Alcoholic, Drug Abuse and Mental Health	1	0	1
Exemption Ch. 435, position of special trust	15	9	24
Family Safety and Preservation Programs	36	12	48
Office of Licensure and Certification	5	6	11
Non-Baker Act Total	61	28	89
Contract Hearings			
Alachua County	0	1	1
Broward County	1	0	1
City of Clearwater	2	0	2
City of Coral Springs Police Officers' Pension Fund	0	1	1
City of Gainesville	0	2	2
Code Enforcement	1	1	2
City of Hallandale Beach Police Officers' and Firefigh	1	0	1
Emerald Coast Utilities Authority	0	2	2
Monroe County	4	2	6
Pinellas County	2	5	7
Agency Total	11	14	25
Florida Commission on Human Relations			
Florida Commission on Human Relations	55	43	98
Fair Housing Act	4	26	30
Agency Total	59	69	128
Department of Corrections			
Department of Corrections	4	2	6
Agency Total	4	2	6
County School Boards			
County School Boards	3	0	3
Alachua County School Board	1	1	2
Baker County School Board	1	0	1
Bay County School Board	0	2	2
Brevard County School Board	2	7	9
Broward County School Board	23	15	38
Charlotte County School Board	0	3	3
Collier County School Board	1	0	1
Columbia County School Board	0	1	1
Miami-Dade County School Board	21	17	38
Duval County School Board	10	14	24
Escambia County School Board	1	1	2
Hernando County School Board	0	1	1

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2019 - 2020

AGENCY	Jul-Dec	Jan-June	TOTAL
Highlands County School Board	1	0	1
Hillsborough County School Board	4	1	5
Lafayette County School Board	0	1	1
Lake County School Board	1	1	2
Lee County School Board	1	4	5
Leon County School Board	1	1	2
Manatee County School Board	1	5	6
Marion County School Board	1	3	4
Martin County School Board	1	0	1
Monroe County School Board	1	0	1
Nassau County School Board	1	0	1
Okeechobee County School Board	0	1	1
Orange County School Board	9	9	18
Osceola County School Board	1	3	4
Palm Beach County School Board	11	10	21
Section 504 cases	2	0	2
Pasco County School Board	1	3	4
Polk County School Board	4	2	6
Putnam County School Board	1	0	1
St Johns County School Board	3	4	7
St Lucie County School Board	1	1	2
Sarasota County School Board	3	7	10
Seminole County School Board	4	5	9
Sumter County School Board	1	0	1
Volusia County School Board	2	1	3
Charter Schools Non-renewal or Terminating	4	0	4
Florida Virtual School	0	1	1
Agency Total	123	125	248
Department of Economic Opportunity			
Department of Economic Opportunity	3	4	7
Agency Total	3	4	7
Department of Environmental Protection			
Department of Environmental Protection	9	26	35
Agency Total	9	26	35
Department of Financial Services			
Department of Financial Services	0	1	1
Division of Insurance Agent and Agency Services	3	0	3
Division of State Fire Marshal	0	1	1
Division of Unclaimed Properties	0	1	1
Division of Funeral, Cemetery, and Consumer Services	1	1	2
Division of Workers` Compensation	35	26	61
Agency Total	39	30	69
Department of Health			
Department of Health	4	0	4
Board of Acupuncture	1	0	1
Board of Chiropractic	3	2	5
Board of Clinical Social Work, Marriage and Family The	0	2	2
Board of Dentistry	1	6	7
Board of Medicine	9	7	16
Board of Massage Therapy	5	11	16
Council of Licensed Midwifery	0	1	1

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2019 - 2020

Appendix 1

AGENCY	Jul-Dec	Jan-June	TOTAL
Board of Nursing	17	14	31
Board of Osteopathic Medicine	2	2	4
Board of Pharmacy	1	3	4
Board of Psychology	1	1	2
Board of Physical Therapy Practice	3	1	4
Board of Respiratory Therapy	0	2	2
Agency Total	47	52	99
Department of Juvenile Justice			
Department of Juvenile Justice	2	1	3
Agency Total	2	1	3
Department of Law Enforcement			
Criminal Justice Standards and Training Commission	6	1	7
Agency Total	6	1	7
Department of Management Services			
Department of Management Services	6	0	6
Division of State Group Insurance	3	3	6
Division of Retirement	6	7	13
Agency Total	15	10	25
Department of Education			
Department of Education	1	5	6
Bureau of Educator Certification	2	0	2
Division of Blind Services	2	0	2
Charter Schools Operation	0	1	1
Confidential Vocational Rehabilitation Cases	6	11	17
Education Practices Commission	41	39	80
Vocational Rehabilitation Services	2	3	5
Agency Total	54	59	113
Department of Transportation			
Department of Transportation	11	4	15
Agency Total	11	4	15
Department of Business and Professional Regulation			
Board of Architecture	4	0	4
Barber`s Board	1	0	1
Construction Industry Licensing Board	1	1	2
Division of Alcoholic Beverages and Tobacco	7	2	9
Division of Real Estate	4	0	4
Florida Real Estate Commission	0	1	1
Non-licensed Respondent	8	1	9
Division of Pari-Mutuel Wagering	9	10	19
Board of Professional Engineers	2	3	5
Agency Total	36	18	54
Florida Commission on Ethics			
Florida Commission on Ethics	2	3	5
Agency Total	2	3	5
Florida Elections Commission			
Florida Elections Commission	2	0	2

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2019 - 2020

Appendix 1

AGENCY	Jul-Dec	Jan-June	TOTAL
Agency Total	2	0	2
Florida Housing Finance Corporation			
Florida Housing Finance Corporation	0	21	21
Agency Total	0	21	21
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	9	12	21
Agency Total	9	12	21
Growth Management (No Agency)			
Growth Management (No Agency)	8	5	13
Agency Total	8	5	13
Agency for Health Care Administration			
Agency for Health Care Administration	19	30	49
Office of Certificate of Need	3	4	7
Medicaid Cost Reimbursement	7	1	8
Medicaid Program Integrity	12	5	17
Office of Licensure and Certification	18	46	64
Agency Total	59	86	145
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	6	5	11
Section 320.642	3	7	10
Agency Total	9	12	21
Medical Arbitration			
Medical Arbitration	4	17	21
Agency Total	4	17	21
No Agency			
Construction Mining	0	1	1
Agency Total	0	1	1
Florida Birth-Related Neurological Injury Compensation Association			
Florida Birth-Related Neurological Injury Compensation Association	32	26	58
Agency Total	32	26	58
Office of Financial Regulation			
Office of Financial Regulation	2	1	3
Agency Total	2	1	3
Office of Insurance Regulation			
Office of Insurance Regulation	1	1	2
Agency Total	1	1	2
Public Service Commission			
Public Service Commission	2	0	2
Agency Total	2	0	2
Department of Revenue			
Department of Revenue	10	2	12
Child Support Enforcement Program	1,681	1,380	3,061

Division of Administrative Hearings

ANALYSIS OF AGENCY REQUEST FOR
FISCAL YEAR 2019 - 2020

AGENCY	Jul-Dec	Jan-June	TOTAL
Agency Total	1,691	1,382	3,073
State Board of Administration			
State Board of Administration	2	3	5
Agency Total	2	3	5
Universities and Colleges			
Florida State University	0	1	1
Agency Total	0	1	1
Water Management Districts			
Northwest Florida Water Management District	1	0	1
South Florida Water Management District	3	0	3
St. Johns River Water Management District	1	2	3
Suwannee River Water Management District	0	2	2
Southwest Florida Water Management District	0	2	2
Agency Total	5	6	11
NON BAKER ACT TOTAL	2,326	2,046	4,372
Baker Acts			
Adventhealth Lake Wales	1	0	1
Apalachee Center Inc.	1	7	8
Department of Veterans Affairs	2	5	7
Emerald Coast Behavioral Hospital	0	1	1
Florida State Hospital	221	154	375
Florida Women's Reception Center	6	1	7
Lake Correctional Institution	3	1	4
Largo Medical Center, Indian Rocks	1	1	2
Life Management Center of Northwest Florida	0	2	2
Mease Dunedin Hospital	4	4	8
Mental Health Care, Inc. d/b/a Gracepoint	0	1	1
Meridian Behavioral Healthcare, Inc.	0	3	3
Morton Plant Hospital	7	4	11
Morton Plant North Bay Hospital-Recovery Center	1	0	1
North Florida Regional Medical Center	6	1	7
North Naples Community Hospital	0	2	2
Northeast Florida State Hospital	458	388	846
Peace River Center	14	13	27
Personal Enrichment Mental Health Services	5	6	11
Saint Anthony's Hospital	6	2	8
St. Joseph's Behavioral Health Center	2	2	4
Tallahassee Memorial Hospital Behavioral Healthcar	1	0	1
Tampa Community Hospital	2	2	4
UF Health Shands Hospital	0	1	1
UF Shands Psychiatric Hospital (Shands At Vista)	1	1	2
Wellpath Recovery Solutions	257	278	535
Wellpath Recovery Solutions Arcadia	2	1	3
West Florida Community Care Center	35	27	62
Baker Act Total	1,036	908	1,944

Appendix 2

SUMMARY

Division of Administrative Hearings
Actual, Estimated and Requested Expenditures
(Operating Trust Fund unless otherwise noted)

Adjudication of Disputes

<u>Appropriation Category</u>	<u>Actual Expenditures FY 2019-20</u>	<u>Estimated Expenditures FY 2020-21</u>	<u>Requested Expenditures FY 2021-22</u>
Salaries and Benefits	\$7,137,723	\$7,576,600	\$7,655,250
Other Personal Services	\$663	\$18,082	\$18,082
Expenses	\$1,099,346	\$1,018,147	\$1,050,647
Operating Capital Outlay	\$84,050	\$65,000	\$32,500
Special Categories			
Contracted Services	\$164,172	\$200,495	\$200,495
Contracted Legal Svcs.	\$55,918	\$1,000	\$1,000
Risk Mgmt. Ins.	\$26,072	\$22,538	\$22,538
Lease/Purch/Equip	\$12,625	\$24,000	\$24,000
TR/DMS/HR SVCS	<u>\$20,210</u>	<u>\$20,254</u>	<u>\$20,254</u>
Total Program Budget	<u>\$8,600,779</u>	<u>\$8,946,116</u>	<u>\$9,024,766</u>
Total Program Positions	65	65	65

Workers' Compensation Appeals

<u>Appropriation Category</u>	<u>Actual Expenditures FY 2019-20</u>	<u>Estimated Expenditures FY 2020-21</u>	<u>Requested Expenditures FY 2021-22</u>
Salaries and Benefits	\$13,881,779	\$14,930,550	\$15,112,264
Other Personal Services	\$0	\$17,836	\$17,836
Expenses	\$2,976,867	\$2,864,842	\$2,890,808
Operating Capital Outlay	\$107,564	\$64,916	\$38,950
Special Categories			
Contracted Services	\$909,167	\$1,008,324	\$1,008,324
Contracted Legal Svcs.	\$13,279	\$1,279	\$1,279
Tenant Broker Commissions	\$8,948	\$0	\$0
Risk Mgmt. Ins.	\$97,430	\$47,519	\$47,519
Lease/Purchase/Equip	\$24,140	\$34,000	\$34,000
TR/DMS/HR SVCS	<u>\$58,879</u>	<u>\$59,008</u>	<u>\$59,008</u>
Total Program Budget	<u>\$18,078,053</u>	<u>\$19,028,274</u>	<u>\$19,209,988</u>
Total Program Positions	175	175	175

TOTAL DIVISION BUDGET	<u>\$26,678,832</u>	<u>\$27,974,390</u>	<u>\$28,234,754</u>
TOTAL DIVISION POSITIONS	240	240	240

2021 DOAH ANNUAL REPORT

#: 48

PERIOD: *July 1, 2020 - June 30, 2021*

DATE: February 1, 2022

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Peter Antonacci, Chief Judge

PAGES: 9

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2021





**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

February 1, 2022
FORTY-EIGHTH ANNUAL REPORT

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OPERATING BUDGET	4
ZOOM TECHNOLOGY	5
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INTRODUCTION

This report is submitted to the Joint Administrative Procedures Committee and the Administration Commission in compliance with section 120.65(8), Florida Statutes, which provides:

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.
- (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).

This report is based upon case and budget data FY 2020-21.

DIVISION OF ADMINISTRATIVE HEARINGS FORTY-SEVENTH ANNUAL REPORT

GENERAL

The Division of Administrative Hearings (DOAH) manages two programs. One, the subject of this report, is the Adjudication of Disputes program that operates pursuant to the Administrative Procedure Act. The other is the Workers' Compensation Adjudication program, operating pursuant to chapter 440, Florida Statutes, which requires the Office of the Judges of Compensation Claims (OJCC) to issue an annual report. The OJCC annual report was submitted timely in November 2021. Because DOAH administratively supports both programs, this report includes some information pertaining to the OJCC.

UTILIZATION AND HEARING REQUESTS

The following state agencies utilized DOAH's services:¹

- Agency for Health Care Administration
- Agency for Persons with Disabilities
- Department of Revenue (DOR)
 - Child Support Hearings
- Department of Management Services
- Department of Health
- Department of Education
- Department of Children and Families (DCF)
 - Baker Act Hearings
- Department of Financial Services
 - Office of Financial Regulation
 - Office of Insurance Regulation
- Department of Business and Professional Regulation
- Department of Environmental Protection
- Department of Highway Safety and Motor Vehicles
- Department of Agriculture and Consumer Services
- Florida Commission on Ethics
- Florida Commission on Human Relations

See, Appendix 1

Entities such as water management districts, cities, counties and school districts are significant users of DOAH's services under contract.

In FY 2020-21, each Administrative Law Judge (ALJ) conducted an average of 181 hearings and wrote an average of 77 Recommended or Final Orders of varying length and complexity. In addition, each ALJ closed an average of 75 cases

¹ DOAH also hears cases involving Medical Arbitration (Sections 766.201-766.212, Fla. Stat.), Neurological Injury Compensation Association (NICA) (Sections 766.301-766.316, Fla. Stat.), and Baker Act commitments outside the agency transfer funding policy. Medical Arbitration cases pay nothing (50 cases in FY 2020-21); NICA cases pay a filing fee of \$15 (47 cases in FY 2020-21), far below the costs of utilization; Baker Act cases (1,555 in FY 2020-21), which may not be heard (for now) by Zoom (*See, John Doe v. State, 217 So. 3d 1020 (Fla. 2017)*), make them even more costly as ALJ time and travel costs to the 128 Baker Act receiving and treatment facilities are unfunded by DCF transfers.

**DIVISION OF ADMINISTRATIVE HEARINGS
FORTY-SEVENTH ANNUAL REPORT**

(excluding DCF Baker Act cases and DOR Child Support cases), which were settled or otherwise dismissed without a final hearing.

UTILIZATION OF PERSONNEL

As of June 30, 2021, the Adjudication of Disputes program had 65 established positions, consisting of the Chief Judge, the Executive Director/Deputy Chief Judge, 31 ALJs, 9 legal assistants, and 25 administrative support staff (including the Clerk's office and IT). With one legal assistant assigned to three judges, DOAH operates a highly efficient staffing model for the adjudicatory process. In light of reduced caseloads and the party preference for Zoom hearings (dramatically reducing ALJ travel time in favor of office time), DOAH has recommended reducing the number of ALJ positions from 31 to 29.

The Workers' Compensation Adjudication program had 175 established positions in 17 statutorily mandated locations, consisting of 1 Deputy Chief Judge and 31 Judges of Compensation Claims (JCCs), 30 Mediators, and 113 administrative support staff (including the Clerk's Office). In 2021, the OJCC adjusted its long-standing JCC administrative support complement from 4 to 3, mostly by attrition. Accordingly, DOAH recommended reducing OJCC positions by 20 with an additional 11 planned reductions for FY 2023-24.

INFORMATION TECHNOLOGY

DOAH maintains two mission-critical databases and applications: the ALJ Case Management System (CMS) and the OJCC Case Management System (JCCa). Associated applications include full-text retrieval and document indexing of orders issued by DOAH's ALJs and JCCs. Both databases are accessible via DOAH's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include office automation (word processing and email) and online legal research.

Electronic Filing

During calendar year 2021, there were 32,497 documents uploaded via the eALJ filing portal; 33,144 documents were served (via email) to 126,264 parties of record. Additionally, 556,694 documents were uploaded via the eJCC filing portal; 753,582 documents were electronically served to 1,891,640 parties of record. DOAH continues to encourage electronic filing while acknowledging pro se party limitations on the uniform application to this requirement.

DOAH endeavors to make the electronic filing and the service of pleadings and documents more user-friendly. In 2021, DOAH developed an exhibit portal that allows all users to submit proposed exhibits electronically.

Indexing

Pursuant to section 120.53(2), all state agencies are required to electronically transmit their agency Final Orders to DOAH's website for indexing purposes. To date, a total of 250,557 documents have been submitted to the Agency Index Documents database, with 26,061 of those uploaded in calendar year 2021.

DIVISION OF ADMINISTRATIVE HEARINGS
FORTY-SEVENTH ANNUAL REPORT

In calendar year 2021, DOAH began indexing emergency declarations and orders pursuant to section 252.36(3)(b), Florida Statutes.

Cybersecurity

DOAH has long been concerned with the integrity of its IT systems. This concern has grown out of the general responsibility to those whose private information comes into DOAH's possession through electronic means. Actions include developing appropriate walls to keep that private information separate from all but those who are entitled to it; taking appropriate measures to ensure that the users of the Division's systems do not accidentally release confidential information to those not entitled to it; or infect the IT systems with malware or other intrusions. In 2021, DOAH made a significant security investment upgrade by acquiring Palo Alto Next-Generation Firewalls (NGFW) featuring the Cortex Extended Detection and Response (XDR) platform. Cortex XDR is an enterprise detection and response application that integrates network, endpoint, and cloud data to stop sophisticated attacks.

In addition, IT regularly provides cybersecurity training to all DOAH personnel.

OPERATING BUDGET

Previously, DOAH reported the total number of hearing hours conducted by ALJs for all agencies to the Legislature and the Governor's Office as a metric to prorate its budget among agency users. This "hearing hour" metric has proven flawed for proration purposes, so DOAH changed to a "cases filed" metric as a more accurate and equitable method to prorate the Division's budget request for FY 2022-23.

DOAH is authorized to contract for the provision of ALJ services with entities such as cities, counties, regional planning councils, water management districts, school districts, and other governmental entities. Contract entities reimburse DOAH for the costs of its services at a contract rate based on a total-cost-recovery methodology. DOAH has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to non-state entities. Currently, DOAH has 190 contracts with local government entities to provide adjudicating services. DOAH reviews the contract rate it charges local government entities annually (resulting in a modest decrease this year) and will continue to grow contract revenue by actively marketing its services to governmental entities who realize a cost savings due to DOAH's modest contract rate. In addition, DOAH's implementation of Zoom technology has made it possible to provide adjudicatory services to local governments located outside of Tallahassee without charging for travel, thus making DOAH an even more economical option.

The Workers' Compensation Adjudication program is supported by appropriated transfers from the Workers' Compensation Administration Trust Fund. This trust fund receives monies from a workers' compensation premium tax

**DIVISION OF ADMINISTRATIVE HEARINGS
FORTY-SEVENTH ANNUAL REPORT**

assessment, which supports the entire workers' compensation program. DOAH's budget and expenditure data is attached.

See, Appendix 2

ZOOM TECHNOLOGY

Beginning in 2009, DOAH offered video-conferencing capabilities (VTC) in each of its 17 district offices throughout Florida, as well as in Tallahassee. But the peer-to-peer functionality of VTC requires parties to gather in no more than two locations, and the social distancing requirements imposed in early 2020 due to COVID-19 rendered its VTC all but unusable and forced DOAH to look for other alternatives for video conferencing. In March 2020, DOAH began using Zoom web-based technology to conduct hearings in lieu of in-person or VTC hearings. Zoom has proven to be a more reliable and convenient means to conduct hearings than the peer-to-peer VTC system DOAH implemented in 2009, and DOAH has therefore shuttered the VTC system. To date, DOAH has conducted over 4,700 hearings by Zoom and has upgraded the Zoom technology in all hearing rooms to enable parties and witnesses to attend live hearings remotely.

RECOMMENDATIONS CONCERNING THE APA

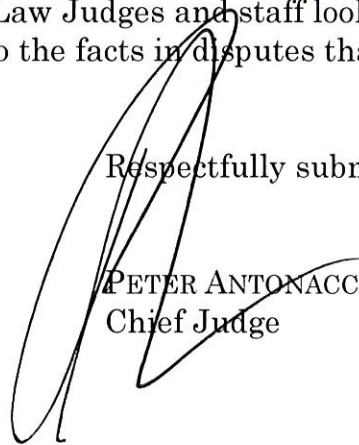
DOAH makes no new recommendations for legislative amendment to the Administrative Procedure Act (APA). The issues raised for potential change in the 2019 report (respectively filing and indexing Agency Final Orders) continue to offer opportunity for improvement.

CONCLUSION

DOAH, Florida's primary administrative court, offers timely, high-quality objective adjudication of disputes services pursuant to the Administrative Procedure Act. DOAH continues to seek ways to make the process more affordable, and to expand its services to local governments. DOAH is mindful of the costs to parties of proceeding to hearing and seeks to minimize delays by quickly moving cases through the system. This commitment ensures that individuals, businesses, and agencies experience timely, cost effective decision making.

DOAH's Administrative Law Judges and staff look forward to the 49th year of applying the law as written to the facts in disputes that are referred for speedy adjudication.

Respectfully submitted,


PETER ANTONACCI
Chief Judge

**DIVISION OF ADMINISTRATIVE HEARINGS
REQUESTS FOR HEARINGS
FISCAL YEAR 2020-2021**

APPENDIX 1

ENTITY	TOTAL
Agency for Health Care Administration	111
Agency for Persons with Disabilities	18
Department of Agriculture and Consumer Services	25
Department of Business and Professional Regulation	50
Department of Children and Family Services	69
Baker Act Hearings	1,555
Department of Corrections	1
Department of Economic Opportunity	4
Florida Housing Finance Corporation	18
Department of Education	102
Department of Environmental Protection	46
Department of Financial Services	59
Office of Financial Regulation	2
Office of Insurance Regulation	1
Department of Health	132
Department of Highway Safety and Motor Vehicles	26
Department of Juvenile Justice	1
Department of Law Enforcement	2
Department of Management Services	22
Florida Commission on Human Relations	181

**DIVISION OF ADMINISTRATIVE HEARINGS
REQUESTS FOR HEARINGS
FISCAL YEAR 2020-2021**

APPENDIX 1

ENTITY	TOTAL
Department of Revenue	15
Child Support Hearings	2,051
Department of State	1
Department of Transportation	19
Department of Veterans Affairs	1
Fish and Wildlife Conservation Commission	18
Office of the Governor	2
Florida Birth-Related Neurological Injury Compensation (NICA)	48
Florida Commission on Ethics	25
Florida Elections Commission	1
Growth Management	7
County School Boards	270
Other Governmental Entities	46
Medical Arbitration	50
State Board of Administration	8
TOTAL	4,987

SUMMARY

Division of Administrative Hearings
Actual, Estimated and Requested Expenditures

Adjudication of Disputes

Appropriation Category	Legislative Appropriations FY 2020-21	Actual Expenditures FY 2020-21	Current Appropriations FY 2021-22	Requested Appropriations FY 2022-23
Salaries and Benefits	\$7,576,600	\$7,495,011	\$8,387,977	\$8,473,121
Other Personal Services	\$18,082	\$0	\$18,082	\$18,082
Expenses	\$958,147	\$817,375	\$1,103,227	\$1,096,474
Operating Capital Outlay	\$48,000	\$40,519	\$32,500	\$32,500
Special Categories				
Contracted Services	\$225,495	\$225,332	\$275,495	\$275,495
Contracted Legal Svcs.	\$53,000	\$24,323	\$33,000	\$1,000
Risk Mgmt. Ins.	\$22,538	\$22,538	\$28,019	\$28,019
Lease/Purch/Equip	\$24,000	\$16,656	\$24,000	\$24,000
TR/DMS/HR SVCS	\$20,254	\$20,254	\$22,177	\$21,262
Total Program Budget	<u>\$8,946,116</u>	<u>\$8,662,008</u>	<u>\$9,924,477</u>	<u>\$9,969,953</u>
Total Program Positions	65	65	75*	72

Workers' Compensation Adjudication

Appropriation Category	Legislative Appropriations FY 2020-21	Actual Expenditures FY 2020-21	Current Appropriations FY 2021-22	Requested Appropriations FY 2022-23
Salaries and Benefits	\$14,870,550	\$14,433,252	\$14,612,180	\$15,305,580
Other Personal Services	\$17,836	\$0	\$17,836	\$17,836
Expenses	\$2,909,842	\$2,893,949	\$2,838,228	\$2,761,957
Operating Capital Outlay	\$64,916	\$59,086	\$38,950	\$38,950
Special Categories				
Contracted Services	\$1,008,324	\$874,289	\$933,324	\$983,324
Contracted Legal Svcs.	\$16,279	\$317	\$69,279	\$1,279
Tenant Broker Commissions	\$26,312	\$26,311	\$13,568	\$0
Risk Mgmt. Ins.	\$47,519	\$47,519	\$42,288	\$42,288
Lease/Purchase/Equip	\$34,000	\$20,202	\$34,000	\$32,000
TR/DMS/HR SVCS	\$59,008	\$59,008	\$52,670	\$46,265
Total Program Budget	<u>\$19,054,586</u>	<u>\$18,413,933</u>	<u>\$18,652,323</u>	<u>\$19,229,479</u>
Total Program Positions	175	175	165*	144

TOTAL DIVISION BUDGET**\$28,000,702****\$28,576,800****\$29,199,432****TOTAL DIVISION POSITIONS****240****240****216**

*Reflects mid-year transfer of 10 administrative positions from Workers' Compensation Adjudication to Adjudication of Disputes program

2022 DOAH ANNUAL REPORT

#: 49

PERIOD: *July 1, 2021 - June 30, 2022*

DATE: January 30, 2023

STATE: FL

AGENCY: Division of Administrative Hearings

AUTHOR: Brian Newman, Chief Judge

PAGES: 10

WEBPAGE: TextBookDiscrimination.com/Reports/FL/DOAH/Annual/2022





**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

January 30, 2023
FORTY-NINTH ANNUAL REPORT

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DIVISION OF ADMINISTRATIVE HEARINGS FORTY-NINTH ANNUAL REPORT

INTRODUCTION

This report is submitted to the Joint Administrative Procedures Committee and the Administration Commission in compliance with section 120.65(8), Florida Statutes, which provides:

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.
- (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).

This report is based upon case and budget data FY 2021-22.

GENERAL

The Division of Administrative Hearings (DOAH) manages two programs. One, the subject of this report, is the Adjudication of Disputes program that operates pursuant to the Administrative Procedure Act. The other is the Workers' Compensation Adjudication program, operating pursuant to chapter 440, Florida Statutes, which requires the Office of the Judges of Compensation Claims (OJCC) to issue an annual report. The OJCC annual report was submitted timely in November 2022. Because DOAH administratively supports both programs, this report includes some information pertaining to the OJCC.

UTILIZATION AND HEARING REQUESTS

The following state agencies utilized DOAH's services:¹

- Agency for Health Care Administration
- Agency for Persons with Disabilities

¹ DOAH also hears cases involving Medical Arbitration (Sections 766.201-766.212, Fla. Stat.) and Neurological Injury Compensation Association (NICA) (Sections 766.301-766.316, Fla. Stat.). Medical Arbitration cases pay nothing (37 cases in FY 2021-22); and NICA cases pay a filing fee of \$15 (74 cases in FY 2021-22), which is far below the costs of utilization.

**DIVISION OF ADMINISTRATIVE HEARINGS
FORTY-NINTH ANNUAL REPORT**

- Department of Agriculture and Consumer Services
- Department of Business and Professional Regulation
- Department of Children and Families (DCF)
 - Baker Act Hearings
- Department of Corrections
- Department of Economic Opportunity
 - Florida Housing Finance Corporation
- Department of Education
- Department of Environmental Protection
- Department of Financial Services
 - Office of Financial Regulation
 - Office of Insurance Regulation
- Department of Health
- Department of Highway Safety and Motor Vehicles
- Department of Juvenile Justice
- Department of Law Enforcement
- Department of Management Services
 - Florida Commission on Human Relations
- Department of Revenue (DOR)
 - Child Support Hearings
- Department of Transportation
- Executive Office of the Governor
- Fish and Wildlife Conservation Commission
- Florida Commission on Ethics
- Florida Elections Commission
- Florida Gaming Control Commission
- Public Service Commission
- State Board of Administration

See, Appendix 1

Entities such as water management districts, cities, counties, and school districts are significant users of DOAH's services under contract.

In FY 2021-22, each Administrative Law Judge (ALJ) conducted an average of 148 hearings and wrote an average of 80 Recommended or Final Orders of varying length and complexity. In addition, each ALJ closed an average of 42 cases (excluding DCF Baker Act cases and DOR Child Support cases), which were settled or otherwise dismissed without a final hearing.

UTILIZATION OF PERSONNEL

As of June 30, 2022, the Adjudication of Disputes program had 75 established positions, consisting of the Chief Judge, the Executive Director/Deputy Chief Judge, 32 ALJs, 9 legal assistants, and 32 administrative support staff (including the Clerk's office and IT). With one legal assistant assigned to three judges, DOAH operates a highly efficient staffing model for the adjudicatory process. In light of reduced caseloads and the party preference for Zoom video conference hearings

**DIVISION OF ADMINISTRATIVE HEARINGS
FORTY-NINTH ANNUAL REPORT**

(dramatically reducing ALJ travel time in favor of office time). The number of ALJ positions was reduced from 32 to 30.

The Workers' Compensation Claims Court program had 165 established positions in 17 statutorily mandated locations, consisting of 1 Deputy Chief Judge and 31 Judges of Compensation Claims (JCCs), 30 Mediators, and 103 administrative support staff (including the Clerk's Office). Effective July 1, 2022, the number of JCCs and office locations are no longer in statute; therefore, some offices were consolidated in FY 2022-2023. In 2021, the OJCC adjusted its long-standing JCC administrative support complement from 4 to 3, mostly by attrition. Accordingly, DOAH reduced OJCC positions by 21.

INFORMATION TECHNOLOGY

DOAH maintains two mission-critical databases and applications: the ALJ Case Management System (CMS) and the OJCC Case Management System (JCCa). Associated applications include full-text retrieval and document indexing of orders issued by DOAH's ALJs and JCCs. Both databases are accessible via DOAH's two websites, www.doah.state.fl.us and www.fljcc.org. Secondary applications include office automation (word processing and email) and online legal research.

Electronic Filing

During calendar year 2022, there were 42,449 documents uploaded via the eALJ filing portal; 42,642 documents were served (via email) to 163,712 parties of record. Additionally, 579,257 documents were uploaded via the eJCC filing portal; 796,690 documents were electronically served to 2,037,150 parties of record. DOAH continues to encourage electronic filing while acknowledging pro se party limitations on the uniform application to this requirement.

DOAH endeavors to make the electronic filing and the service of pleadings and documents more user-friendly. In 2021, DOAH developed an exhibit portal that allows all users to submit proposed exhibits electronically. In 2022, 13,397 exhibits have been uploaded via the eALJ filing portal.

Indexing

Pursuant to section 120.53(2), all state agencies are required to electronically transmit their agency Final Orders to DOAH's website for indexing purposes. To date, a total of 279,771 documents have been submitted to the Agency Index Documents database, with 26,419 of those uploaded in calendar year 2022.

In calendar year 2021, DOAH began indexing emergency declarations and orders pursuant to section 252.36(3)(b), Florida Statutes. To date, a total of 197 documents have been submitted to the Agency Emergency Documents database, with 141 of those uploaded in calendar year 2022.

Cybersecurity

DOAH has long been concerned with the integrity of its IT systems. This concern has grown out of the general responsibility to those whose private information

**DIVISION OF ADMINISTRATIVE HEARINGS
FORTY-NINTH ANNUAL REPORT**

comes into DOAH's possession through electronic means. Actions include developing appropriate walls to keep that private information separate from all but those who are entitled to it; taking appropriate measures to ensure that the users of the Division's systems do not accidentally release confidential information to those not entitled to it; or infect the IT systems with malware or other intrusions. In 2021, DOAH made a significant security investment upgrade by acquiring Palo Alto Next-Generation Firewalls (NGFW) featuring the Cortex Extended Detection and Response (XDR) platform. Cortex XDR is an enterprise detection and response application that integrates network, endpoint, and cloud data to stop sophisticated attacks.

In addition, IT regularly provides cybersecurity training to all DOAH personnel.

OPERATING BUDGET

DOAH is authorized to contract for the provision of ALJ services with entities such as cities, counties, regional planning councils, water management districts, school districts, and other governmental entities. Contract entities reimburse DOAH for the costs of its services at a contract rate based on a total-cost-recovery methodology. DOAH has continued to implement the Office of Program Policy Analysis and Government Accountability's (OPPAGA) recommendation to shift the burden of the cost of the Adjudication of Disputes program from state agencies to non-state entities. Currently, DOAH has 195 contracts with local government entities to provide adjudicating services. DOAH reviews the contract rate it charges local government entities annually (resulting in a modest increase this year) and will continue to grow contract revenue by actively marketing its services to governmental entities who realize a cost savings due to DOAH's modest contract rate. In addition, DOAH's implementation of Zoom video conference technology has made it possible to provide adjudicatory services to local governments located outside of Tallahassee without charging for travel, thus making DOAH an even more economical option.

The Workers' Compensation Claims Court program is supported by appropriated transfers from the Workers' Compensation Administration Trust Fund. This trust fund receives monies from a workers' compensation premium tax assessment, which supports the entire workers' compensation program. DOAH's budget and expenditure data is attached.

See, Appendix 2

ZOOM VIDEO CONFERENCE TECHNOLOGY

Beginning in 2009, DOAH offered video-teleconferencing capabilities (VTC) in each of its district offices throughout Florida, as well as in Tallahassee. But the peer-to-peer functionality of VTC requires parties to gather in no more than two locations, and the social distancing requirements imposed in early 2020 due to COVID-19 rendered its VTC all but unusable and forced DOAH to look for other alternatives for video conferencing. In March 2020, DOAH began using Zoom web-based technology to conduct hearings by video conference in lieu of in-person or VTC

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hearings. Zoom has proven to be a more reliable and convenient means to conduct hearings by video conference than the peer-to-peer VTC system DOAH implemented in 2009, and DOAH has therefore shuttered the VTC system. To date, DOAH has conducted over 7,300 hearings by Zoom and has upgraded the Zoom video conference technology in all hearing rooms to enable parties and witnesses to attend live hearings remotely.

RECOMMENDATIONS CONCERNING THE APA

DOAH makes no new recommendations for legislative amendment to the Administrative Procedure Act (APA) as of the time of the filing of this report.

CONCLUSION

DOAH, Florida's primary administrative court, offers timely, high-quality objective adjudication of disputes services pursuant to the Administrative Procedure Act. DOAH continues to seek ways to make the process more affordable, and to expand its services to local governments. DOAH is mindful of the costs to parties of proceeding to hearing and seeks to minimize delays by quickly moving cases through the system. This commitment ensures that individuals, businesses, and agencies experience timely, cost effective decision making.

DOAH's Administrative Law Judges and staff look forward to the 50th year of applying the law as written to the facts in disputes that are referred for speedy adjudication.

Respectfully submitted,



BRIAN A. NEWMAN
Director & Chief Judge

**DIVISION OF ADMINISTRATIVE HEARINGS
REQUESTS FOR HEARINGS
FISCAL YEAR 2021-2022**

APPENDIX 1

ENTITY	TOTAL
Agency for Health Care Administration	99
Agency for Persons with Disabilities	6
Department of Agriculture and Consumer Services	17
Department of Business and Professional Regulation	21
Department of Children and Families	42
Baker Act Hearings	1,372
Department of Corrections	1
Department of Economic Opportunity	8
Florida Housing Finance Corporation	17
Department of Education	124
Department of Environmental Protection	44
Department of Financial Services	39
Office of Financial Regulation	1
Office of Insurance Regulation	1
Department of Health	86
Department of Highway Safety and Motor Vehicles	22
Department of Juvenile Justice	6
Department of Law Enforcement	4
Department of Management Services	12
Florida Commission on Human Relations	132
Department of Revenue	23
Child Support Hearings	2,168
Department of Transportation	14
Executive Office of the Governor	4
Fish and Wildlife Conservation Commission	18
Florida Birth-Related Neurological Injury Compensation (NICA)	74
Florida Commission on Ethics	51
Florida Elections Commission	1

**DIVISION OF ADMINISTRATIVE HEARINGS
REQUESTS FOR HEARINGS
FISCAL YEAR 2021-2022**

APPENDIX 1

ENTITY	TOTAL
Florida Gaming Control Commission	2
Public Service Commission	2
State Board of Administration	2
County School Boards/Universities/Colleges	356
Growth Management	7
Other Contract Governmental Entities	553
Medical Arbitration	37
TOTAL	5,366

SUMMARY
Division of Administrative Hearings
Actual and Estimated Expenditures

Adjudication of Disputes

	Legislative Appropriations	Actual Expenditures	Current Appropriations
<u>Appropriation Category</u>	<u>FY 2021-22</u>	<u>FY 2021-22</u>	<u>FY 2022-23</u>
Salaries and Benefits	\$8,387,977	\$7,756,015	\$8,941,396
Other Personal Services	\$18,082	\$6,444	\$18,082
Expenses	\$1,103,227	\$844,239	\$1,088,974
Operating Capital Outlay	\$32,500	\$30,053	\$32,500
Special Categories			
Contracted Services	\$275,495	\$252,259	\$275,495
Contracted Legal Svcs.	\$33,000	\$4,800	\$8,500
Risk Mgmt. Ins.	\$28,019	\$28,019	\$28,300
Lease/Purch/Equip	\$24,000	\$13,973	\$24,000
TR/DMS/HR SVCS	<u>\$22,177</u>	<u>\$21,949</u>	<u>\$23,302</u>
Total Program Budget	<u>\$9,924,477</u>	<u>\$8,957,751</u>	<u>\$10,440,549</u>
Total Program Positions	75	75	72

Workers' Compensation Claims Court

	Legislative Appropriations	Actual Expenditures	Current Appropriations
<u>Appropriation Category</u>	<u>FY 2021-22</u>	<u>FY 2021-22</u>	<u>FY 2022-23</u>
Salaries and Benefits	\$14,311,180	\$13,304,100	\$15,914,696
Other Personal Services	\$19,836	\$15,164	\$17,836
Expenses	\$3,008,228	\$2,828,515	\$2,754,457
Operating Capital Outlay	\$130,950	\$98,811	\$38,950
Special Categories			
Contracted Services	\$970,324	\$963,139	\$983,324
Contracted Legal Svcs.	\$69,279	\$10,200	\$8,779
Tenant Broker Commissions	\$42,961	\$42,960	\$0
Risk Mgmt. Ins.	\$42,288	\$42,288	\$35,535
Lease/Purchase/Equip	\$34,000	\$19,595	\$32,000
TR/DMS/HR SVCS	<u>\$52,670</u>	<u>\$52,129</u>	<u>\$50,703</u>
Total Program Budget	<u>\$18,681,716</u>	<u>\$17,376,901</u>	<u>\$19,836,280</u>
Total Program Positions	165	165	144

TOTAL DIVISION BUDGET	<u>\$28,606,193</u>	<u>\$26,334,652</u>	<u>\$30,276,829</u>
TOTAL DIVISION POSITIONS	240	240	216

APPENDIX



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