



STATE OF FLORIDA

Department of Administration
Division of Administrative Hearings

ROOM 530, CARLTON BLDG.

TALLAHASSEE

32304

January 23, 1975

Reubin O'D. Askew
GOVERNOR

L. K. Ireland, Jr.
SECRETARY OF ADMINISTRATION

Kenneth G. Oertel
DIRECTOR

A N N U A L R E P O R T

This report is submitted to the Administrative Procedures Committee and the Administration Commission under Section 120.70, Florida Statutes, which states:

(1) Not later than February 1 of each year, the director 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 hearing officers, court reporters and other personnel in proceedings under this act;

(b) His recommendations for change or improvement in the administrative procedure act or any agency's practice or policy with respect thereto.

To date, the Division has been in existence for slightly under three months. Under Section 120.65 F.S., the Administration Commission appointed the Director of the Division of Administrative Hearings in October and the Director assumed office November 1, 1974. Since the Division has been in operation a relatively short period of time, there is very little to report regarding the extent and effect of "agencies' utilization of hearing officers, court reporters and other personnel . . . ,"

and there are no recommendations for changes in the APA included in this report. In light of the above, this report will concentrate on submitting a breakdown of the activities of the Division to the present time.

The basic objectives of the Division during the last few months of 1974 have been (a) preparation and adoption of rules of procedure; (b) hiring qualified personnel; (c) arranging for permanent office space.

A. ADOPTION OF RULES.

Since the Division will be holding proceedings which will be basically similar to civil trials, it was imperative that rules of procedure governing these proceedings be adopted as administrative rules. To that effect, great effort was put into the adoption of rules which were compatible with the requirements of Chapter 120 and the necessity for orderly professional judicial hearings. On December 23, 1974, the Division held a hearing pursuant to Chapter 120 concerning proposed rules of procedure it had formulated. At this hearing there were no serious objections to any of the proposed rules prepared by the Division and on December 30, these rules were filed with the Secretary of State's Office and now exist as the Division's Rules of Procedure. As soon as the Secretary of State's Office incorporates these rules into its revised Administrative Code, the Division will be in a position to disseminate its Rules of Procedure to all interested parties at no more than cost.

In addition to the above, the Division assisted the Attorney General's Office on behalf of the Administration Commission in the preparation of Model Rules of Procedure as required by 120.54(9) F.S. These rules

were adopted on December 19 at the regularly scheduled meeting of the Administration Commission in fulfillment of the requirements of Chapter 120. Furthermore, on January 9, 1975, the Administration Commission adopted additions to these Model Rules under the emergency rule-making procedures of 120.56(8) F.S. These rules pertain to Cabinet Meetings which consider actions of the ten state agencies headed by the Governor and members of the Florida Cabinet. The preparation and presentation of these rules was largely handled by the Division of Administrative Hearings. The Joint Committee has been furnished copies of the Model Rules and copies of the Emergency Rules adopted for the Florida Cabinet on January 9.

B. FILLING AUTHORIZED POSITIONS.

Generally, the Division has been cautiously filling its authorized positions. We are extremely satisfied with the quality of hearing officers we have been able to obtain. To date, commitments have been received for seven (7) of the ten (10) authorized hearing officer positions. The remaining positions will not be filled until the workload increases to such a point that justifies the addition of new personnel. For these and future positions, the Division is still encouraging qualified attorneys to apply and we will continue to exercise the utmost selectivity in obtaining qualified attorneys to act as full-time hearing officers.

C. OBTAINING PERMANENT OFFICE SPACE.

The Division is presently located on the third floor of the Carlton Building. These quarters are temporary in nature and permanent space has been allocated in the Collins Building. Substantial renovations must be

done in the Collins Building before this space can be occupied. Architectural plans have been prepared for the Division in the Collins Building and it is anticipated that a change order will be executed with the contractor presently working on the Collins Building so that these renovations may be accomplished with the utmost speed. Presently the temporary space in the Carlton Building is adequate for the needs of the Division.

The permanent space allocated to the Division in the Collins Building includes office space for ten hearing officers; all secretarial positions; receptionist; administrative assistant; storage space and room for basic office equipment. Also, an adequate law library, in addition to three hearing rooms, are available. The Division expects to conduct a majority of its Tallahassee hearings in these offices.

ANTICIPATED WORK LOAD

It is presently difficult to evaluate what will be the normal work load for the Division. The Administrative Procedure Act has been in effect less than a month and it appears the general public and professional bar have taken a cautious approach toward utilization of this act. The Division has begun to receive petitions for hearings from many diverse areas of state regulation. We have also answered many inquiries, as might be expected, from members of the general public and state officials which lead us to believe that things will pick up here very rapidly.

ANNUAL REPORT
January 23, 1975
Page Five

No recommendations are being made by the Division for changes in the present legislation. This is not to say that Chapter 120 cannot be improved upon but in our opinion it is premature at this time to make any changes in this new legislation without having the benefit of extensive experience under the operation of its guidelines.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kenneth G. Oertel", written over the typed name below.

KENNETH G. OERTEL
Director