



State of Florida  
Division of Administrative Hearings  
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Director

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Clerk

February 1, 1992

EIGHTEENTH ANNUAL REPORT

This report is submitted to the Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of Section 120.70, 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:

(1) A summary of the extent and effect of agencies' utilization of hearing officers, court reporters, and other personnel in proceedings under this act.

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

GENERAL

The Department of General Services' total cases increased by 146 percent with 59 cases filed in 1991--up from 24 cases filed in 1990.

Significant case load increases for 1991 also include the Department of Environmental Regulation's total which increased from 309 in 1990 to 429 in 1991, an increase of 39

percent and the Department of Natural Resources with a 49 percent case load increase from 39 in 1990 to 58 in 1991.

The Department of Health and Rehabilitative Services' referral of child abuse cases has steadily increased, up five percent from 714 cases filed in 1990 to 750 cases filed in 1991. The Department of Health and Rehabilitative Services' Baker Act cases increased nine percent from 3,352 cases filed in 1990 to 3,648 cases filed in 1991. The Department of Health and Rehabilitative Services grand total increased four percent from 4,910 cases filed in 1990 to 5,122 cases filed in 1991.

New cases tracked during this past year include: citrus canker cases, referred from the Office of the Comptroller, with six cases being filed; 21 Ethics Commission cases; and 16 Vested Rights cases where the Division has final order authority and is on a contract basis with various governmental entities.

Requests for Hearing Officer services in 1991 totaled 8,403, which is a two percent increase over 1990's grand total of 8,202 cases filed.

#### UTILIZATION OF PERSONNEL

The Division has 62 established positions comprised of the Director, Assistant Director, 30 Hearing Officers, 1 Executive Assistant, 4 Administrative Assistants, 1 Personnel Technician, 1 Computer Programmer Analyst, 1 Accountant, 1 Senior Executive Secretary, 5 Staff Assistants, 13 Administrative Secretaries, 1 Senior Word Processing Systems Operator, and 2 Senior Clerks.

### WORKLOAD INCREASES

During calendar year 1991, the Division processed 8,403 hearing requests, an increase of 201 cases (2 percent) from 1990. The cases opened are itemized by agency in the attached Appendix 1.

Of the 8,403 cases, 3,648 were Baker Act cases. The remaining cases were filed pursuant to Section 120.54, 120.56, and 120.57, Florida Statutes. In 1991, each Hearing Officer handled an average of 280 new cases, conducted an average of 176 hearings, and wrote an average of 158 recommended or final orders of varying length and complexity.

In 1991, the Division held a total of 5,277 hearings, an increase of six percent over the 4,964 hearings held in 1990. During the year, the Division closed 8,110 cases, an average of 270 closures per Hearing Officer, an increase of 28 case closures (.34 percent) over 1990.

### OFFICE AUTOMATION

The primary systems applications for the Division are word processing and a customized Case Tracking System (CTS), with secondary office automation applications including computerized Florida Statutes, electronic mail and an automated desk calendar. The Division is instituting a full text retrieval and indexing system for all recommended and final orders that will be available as a legal research tool for Hearing Officers and the public. During 1991, the Division continued to upgrade workstations, opting to trade in older-style processors on used 80286 or 80386 workstations.

## OPERATING BUDGET

Appendix 2 summarizes the Division's actual and estimated expenditures for FY 1990-91 and FY 1991-92, respectively. Appendix 2 also outlines funds requested in the Division's FY 1992-93 Legislative Budget Request.

Since FY 1987-88, the Division has conducted studies to determine a more equitable method of apportioning its operating costs among all users. The Division is responsible for preparing annual reports which summarize the number of hours scheduled by agencies for prehearing conferences, motion hearings, cancelled/continued hearings, and final hearings.

In July, 1991, the Division submitted the results of its fifth annual study to the Legislature and Executive Office of the Governor (see Appendix 3). To coincide with the legislative budget process, the Division prepared its fifth annual report on a fiscal year basis (FY 1990-91), unlike prior annual reports, which covered the period November 1 through December 31 of each year.

In FY 1990-91, agencies scheduled a total of 29,419 hearing hours with the Division, an increase of 4.98 percent over 1990's 28,022 hearing hours scheduled. Of the 29,419 hours scheduled in FY 1990-91, the Division's Hearing Officers actually spent 9,197 hours in administrative proceedings, a decrease of 3.19 percent under the 9,501 hours expended in 1990. In FY 1990-91, 20,222 hearing hours scheduled were cancelled or continued, an increase of 9.18 percent over the 18,521 hours cancelled in 1990.

In FY 1991-92, the Division should receive 87 percent of its approved operating budget from the Departments of Business Regulation, Environmental Regulation, Education, Health and Rehabilitative Services, Insurance, Professional Regulation and Transportation, and 13 percent from the General Revenue Fund. It should be noted, however, that due to a lawsuit filed in early FY 1991-92 by school districts against the State Board of Education, the Legislature, and the Division challenging the constitutionality of the laws providing fund transfers from the school districts to the Division, the posture of the Division's Administrative Trust Fund is uncertain.

Based on the results of the fifth annual report, the Division recommended that all agencies and entities utilizing the Division's services contribute to the Division's Administrative Trust fund. This would result in funding 100 percent of the Division's FY 1992-93 operating budget from its Administrative Trust Fund.

RECOMMENDATIONS CONCERNING THE A.P.A.

The Division has no current recommendations concerning the Administrative Procedure Act.

Respectfully submitted,



SHARYN L. SMITH  
Director of Administrative  
Hearings

SLS/csm

## DIVISION OF ADMINISTRATIVE HEARINGS

ANALYSIS OF AGENCY REQUEST FOR HEARING  
OFFICERS FOR CALENDAR YEAR 1991

Agency	Jan-June	Jul-Dec	TOTAL
<b>Department of Administration</b>			
Abandonment of Position.....	9	7	16
Division of Administrative Hearings.....	0	1	1
Human Relations Commission.....	33	50	83
Division of State Employee Insurance.....	4	9	13
Division of Retirement.....	13	8	21
<b>Department Total.....</b>	<b>59</b>	<b>75</b>	<b>134</b>
<b>Department of Agriculture and Consumer Services.....</b>			
Agriculture - Produce Disputed Cases.....	7	12	19
Agriculture - Produce Disputed Cases.....	8	12	20
<b>Department Total.....</b>	<b>15</b>	<b>24</b>	<b>39</b>
Alachua Annexation.....	0	21	21
Broward County Sheriff's Office.....	0	1	1
<b>Department of Business Regulation</b>			
Division of Alcoholic Beverages and Tobacco.....	46	34	80
Division of Hotels and Restaurants.....	7	8	15
Division of Land Sales Condos. and Mobile Homes....	16	16	32
Division of Pari-Mutual Wagering.....	14	11	25
<b>Department Total.....</b>	<b>83</b>	<b>69</b>	<b>152</b>
Department of Commerce.....	0	1	1
<b>Department of Community Affairs.....</b>			
Florida Housing Finance Agency.....	79	80	159
Florida Housing Finance Agency.....	1	2	3
<b>Department Total.....</b>	<b>80</b>	<b>82</b>	<b>162</b>
Office of Comptroller.....	1	0	1
<b>Department of Banking and Finance.....</b>			
Department of Banking and Finance.....	43	31	74
Citrus Canker.....	3	3	6
Division of Securities.....	1	11	12
<b>Department Total.....</b>	<b>48</b>	<b>45</b>	<b>93</b>
<b>Contract Hearings</b>			
City of Clearwater.....	3	4	7
Escambia County Utilities.....	1	0	1
County of Hillsborough.....	1	2	3
County of Leon.....	6	3	9
Pinellas Planning Council.....	1	0	1
City of Safety Harbor.....	1	0	1
City of Tallahassee.....	1	3	4
<b>Contract Hearing Total.....</b>	<b>14</b>	<b>12</b>	<b>26</b>

Department of Corrections.....	29	40	69
Mental Health Institute.....	16	33	49
Department Total.....	45	73	118
(Department Total includes 64 Rule Challenges filed)			
Department of Education.....	5	3	8
Division of Blind Services.....	2	0	2
Education Practices Commission.....	48	48	96
EPC, Declaration of Default.....	12	23	35
Board of Regents.....	2	0	2
Florida A & M Universities.....	1	0	1
Florida State University.....	0	1	1
Hillsborough County Community College.....	1	1	2
Miami-Dade Community College.....	1	0	1
School for the Deaf and Blind.....	1	1	2
Seminole Community College.....	4	0	4
University of Florida.....	2	3	5
University South of Florida.....	0	2	2
Department of Education Total.....	79	82	161
School Board Cases: (includes 39 Exceptional Education Cases filed)			
Alachua County School Board.....	0	3	3
Bay County School Board.....	3	2	5
Brevard County School Board.....	0	1	1
Broward County School Board.....	8	7	15
Clay County School Board.....	2	0	2
Collier County School Board.....	3	1	4
Dade County School Board.....	0	1	1
Duval County School Board.....	6	3	9
Escambia County School Board.....	1	0	1
Franklin County School Board.....	1	0	1
Gulf County School Board.....	0	1	1
Hendry County School Board.....	1	0	1
Hillsborough County School Board.....	1	0	1
Holmes County School Board.....	0	2	2
Jackson County School Board.....	0	2	2
Lee County School Board.....	0	1	1
Leon County School Board.....	3	4	7
Marion County School Board.....	0	1	1
Nassau County School Board.....	0	1	1
Orange County School Board.....	4	3	7
Palm Beach County School Board.....	5	7	12
Pasco County School Board.....	0	2	2
Pinellas County School Board.....	13	7	20
Polk County School Board.....	1	0	1
Seminole County School Board.....	4	0	4
Suwannee County School Board.....	0	1	1
Volusia County School Board.....	0	2	2
School Board Total.....	56	54	110
Department Grand Total.....	135	136	271
Department of Environmental Regulation.....	214	215	429

Ethics Commission.....	6	15	21
Florida Game and Fresh Water Fish Commission.....	0	4	4
Department of General Services.....	19	40	59
Office of the Governor.....	0	1	1
Florida Land and Water Adjudicatory Commission.....	4	5	9
Department Total.....	4	6	10
<b>Department of Health and Rehabilitative Services</b>			
<b>Non-Baker Act Cases:</b>			
Miscellaneous.....	32	34	66
Audit Services.....	76	46	122
DHRS-Child Abuse Cases.....	316	434	750
DHRS-Child Support Cases.....	1	0	1
Developmental Services Program.....	1	4	5
Emergency Medical Services.....	6	8	14
Health Care Cost Containment Board.....	7	45	52
Health Program Office.....	16	15	31
Health Program Office Pharmacy.....	1	0	1
Office of Central Administrative Services.....	5	11	16
Office of Community Medical Facilities.....	108	98	206
Office of Entomology.....	5	9	14
Office of Licensure and Certification.....	47	40	87
Office of Personnel.....	4	4	8
Program Development for Children, Youth and Families	4	13	17
Program Development for Human Services.....	2	0	2
Program Development for Medicaid Disputes.....	31	44	75
Program Development for Mental Health.....	2	3	5
Program Development for Aging and Adult Services...	0	2	2
<b>Non-Baker Act Total.....</b>	<b>664</b>	<b>810</b>	<b>1474</b>
<b>Baker Act Cases:</b>			
Anclote Manor Hospital.....	8	4	12
Bay Pines Veterans Medical Center.....	0	2	2
Broward County Mental Health Center.....	13	23	36
Florida State Hospital.....	563	497	1060
G. Pierce Wood Memorial Hospital.....	442	497	939
James A. Haley Veterans Hospital.....	0	1	1
Northeast Florida State Hospital.....	534	486	1020
South Florida State Hospital.....	275	300	575
West Florida Community Care Center.....	0	3	3
<b>Baker Act Total.....</b>	<b>1835</b>	<b>1813</b>	<b>3648</b>
<b>Department Grand Total.....</b>	<b>2499</b>	<b>2623</b>	<b>5122</b>
<b>Department of Highway Safety and Motor Vehicles.....</b>	<b>35</b>	<b>24</b>	<b>59</b>
<b>Department of Insurance and Treasurer.....</b>	<b>80</b>	<b>91</b>	<b>171</b>
Insurance - Rate/Auto Cases.....	0	3	3
Medical Arbitration.....	1	1	2
<b>Department Total.....</b>	<b>81</b>	<b>95</b>	<b>176</b>



Appendix 1

Department of Labor and Employment Services.....	0	4	4
Bureau of Agricultural Programs.....	12	8	20
Bureau of Self Insurance.....	12	5	17
Division of Employment and Training.....	0	1	1
Division of Vocational Rehabilitation.....	4	10	14
Division of Workers Compensation.....	1	1	2
Department Total.....	29	29	58
Department of Law Enforcement.....	0	1	1
Criminal Justice Standards and Training Commission.....	26	39	65
Victims Compensation.....	0	2	2
Department Total.....	26	42	68
Department of Legal Affairs.....	1	1	2
Department of Lottery.....	2	4	6
Department of Natural Resources.....	23	31	54
Canal Port Authority of Florida.....	1	0	1
Marine Fisheries Commission.....	1	2	3
Department Total.....	25	33	58
Parole and Probation Commission.....	0	4	4
Department of Professional Regulation.....	0	1	1
Board of Accountancy.....	4	7	11
Board of Architecture.....	15	34	49
Board of Auctioneers.....	2	2	4
Barbers Board.....	4	5	9
Board of Chiropractic Examiners.....	5	8	13
Clinical Social Workers.....	2	0	2
Construction Industry Licensing Board.....	52	69	121
Board of Cosmetology.....	30	11	41
Board of Dentistry.....	25	18	43
Electrical Contractors Licensing Board.....	4	2	6
Florida Real Estate Commission.....	101	64	165
Board of Funeral Directors and Embalmers.....	4	2	6
Hearing Aid Specialists.....	6	0	6
Board of Land Surveyors.....	2	7	9
Board of Landscape Architects.....	3	0	3
Marriage and Family Therapists.....	1	2	3
Board of Massage.....	4	1	5
Board of Medical Examiners.....	111	97	208
Board of Mental Health Counselors.....	7	3	10
Board of Naturopathic.....	1	0	1
Board of Nursing.....	35	33	68
Board of Nursing Home Administrators.....	3	0	3
Board of Opticianry.....	4	0	4
Board of Optometry.....	17	1	18
Board of Osteopathic Medical Examiners.....	9	6	15
Board of Pharmacy.....	2	22	24
Board of Pilot Commissioners.....	2	1	3
Board of Podiatry.....	8	3	11
Board of Professional Engineers.....	12	13	25

Appendix 1

Board of Psychological Examiners.....	2	3	5
Board of Physical Therapists.....	0	1	1
Board of Veterinary Medicine.....	3	3	6
<b>Department Total.....</b>	<b>480</b>	<b>419</b>	<b>899</b>
Loxahatchee River Environmental Control District....	0	1	1
Pinellas County Construction Licensing Board.....	2	2	4
Public Service Commissions.....	12	6	18
Department of Revenue.....	37	41	78
<b>Department of State</b>			
Division of Licensing.....	42	34	76
License Denial Cases.....	9	13	22
<b>Department Total.....</b>	<b>51</b>	<b>47</b>	<b>98</b>
Department of Transportation.....	46	58	104
DOT - Sign Cases.....	10	39	49
<b>Department Total.....</b>	<b>56</b>	<b>97</b>	<b>153</b>
<b>Water Management Districts</b>			
North West Florida Water Management District.....	2	1	3
St. Johns River Water Management District.....	10	10	20
South Florida Water Management District.....	2	8	10
Southwest Florida Water Management District.....	10	10	20
Suwannee River Water Management District.....	2	1	3
West Coast Regional Water Supply Authority.....	0	2	2
<b>Water Management District Total.....</b>	<b>26</b>	<b>32</b>	<b>58</b>
<b>NON-BAKER ACT TOTAL.....</b>	<b>2249</b>	<b>2541</b>	<b>4755</b>
<b>GRAND TOTAL.....</b>	<b>4084</b>	<b>4354</b>	<b>8403</b>

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## SUMMARY

Division of Administrative Hearings  
Actual and Estimated Expenditures  
and Legislative Budget Request

<u>Appropriation Category</u>	<u>Actual Expenditures FY 1990-91</u>	<u>Estimated Expenditures FY 1991-92</u>	<u>Requested FY 1992-93</u>
Salaries & Benefits	\$3,574,978	\$3,717,592	\$4,039,820
Other Personal Services	77,554	67,672	71,840
Expenses	608,285	675,289	739,186
Operating Capital Outlay	<u>24,166</u>	<u>113,180</u>	<u>91,909</u>
TOTAL	<u>\$4,284,983</u>	<u>\$4,573,733</u>	<u>\$4,942,755</u>
Positions	62	62	67

HOURS SCHEDULED BY AGENCY  
 FY 1991-92 Apportionment Study  
 Final Report  
 For the Period 7/1/90 through 6/30/91

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	CANCELLED/ CONTINUED HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	% OF DOAH FINAL FY 1992-93 LBR
AGR	4.50	4.00	60.00	42.25	110.75	0.37646%	\$18,608
CMP	18.25	13.00	486.50	121.75	639.50	2.17380%	\$107,446
COR	2.50	0.50	72.00	36.75	111.75	0.37986%	\$18,776
DBR	13.75	21.50	659.50	294.00	988.75	3.36098%	\$166,125
DCA	10.50	35.50	1,594.00	178.50	1,818.50	6.18148%	\$305,536
DER	79.00	74.75	2,264.00	997.25	3,415.00	11.60834%	\$573,772
DGS	0.50	9.50	85.00	31.50	126.50	0.43000%	\$21,254
DLE	7.00	6.00	339.00	151.00	503.00	1.70981%	\$84,512
DNR	4.25	4.25	242.00	47.75	298.25	1.01382%	\$50,111
DOA	14.00	22.00	431.50	213.75	681.25	2.31572%	\$114,460
DOE	84.00	54.00	1,344.00	711.00	2,193.00	7.45449%	\$368,457
DOS	9.50	14.75	206.50	56.00	286.75	0.97473%	\$48,178
DOT	340.00	28.00	464.50	430.50	1,263.00	4.29322%	\$212,203
DPR	106.25	117.25	4,267.75	1,378.50	5,869.75	19.95258%	\$986,207
FWF	0.00	0.00	8.00	30.00	38.00	0.12917%	\$6,385
GOV	4.00	17.25	42.00	205.50	268.75	0.91354%	\$45,154
HCE	0.00	0.00	0.00	7.00	7.00	0.02380%	\$1,175
HRS	216.00	273.50	5,418.50	1,889.25	7,797.25	26.50458%	\$1,310,056
HSH	8.75	18.00	164.00	56.75	247.50	0.84131%	\$41,584
INS	14.25	26.25	635.00	243.75	919.25	3.12473%	\$154,448
KEY	0.00	0.00	0.00	8.75	8.75	0.02974%	\$1,470
LES	1.00	2.00	158.00	25.50	186.50	0.63395%	\$31,335
LOT	1.00	0.00	0.00	23.00	24.00	0.08158%	\$4,032
NWF	0.00	0.00	30.50	1.50	32.00	0.10878%	\$5,376
PAC	0.00	0.00	0.00	12.00	12.00	0.04080%	\$2,016
PCH	0.50	0.00	0.00	0.00	0.50	0.00171%	\$84
PSC	2.50	1.00	88.00	11.25	102.75	0.34927%	\$17,264
REV	16.50	26.25	639.50	46.25	728.50	2.47633%	\$122,399
RPC	0.00	0.00	8.00	0.00	8.00	0.02720%	\$1,344
SFW	1.00	9.25	111.00	118.00	239.25	0.81326%	\$40,198
SJR	16.50	3.00	121.00	50.25	190.75	0.64840%	\$32,049
SWF	1.50	6.00	282.00	12.50	302.00	1.02556%	\$50,741
TOTAL	977.50	787.50	20,221.75	7,431.75	29,418.50	100.00000%	\$4,942,755

## KEY TO AGENCY TITLE ABBREVIATIONS

<u>Abbreviated Agency Title</u>	<u>Full Agency Title</u>
AGR	Department of Agriculture & Consumer Services
CMP	Department of Banking & Finance/Comptroller
COR	Department of Corrections
DBR	Department of Business Regulation
DCA	Department of Community Affairs
DER	Department of Environmental Regulation
DGS	Department of General Services
DLE	Department of Law Enforcement
DNR	Department of Natural Resources
DOA	Department of Administration
DOE	Department of Education
DOS	Department of State
DOT	Department of Transportation
DPR	Department of Professional Regulation
FWF	Game and Freshwater Fish Commission
GOV	Executive Office of the Governor
HCE	Hillsborough County Expressway Authority
HRS	Department of Health & Rehabilitative Services
HSM	Department of Highway Safety & Motor Vehicles
INS	Department of Insurance and Treasurer
KEY	Florida Keys Aqueduct Authority
LES	Department of Labor and Employment Security
LOT	Department of Lottery
NWF	Northwest Florida Water Management District
PAC	Performing Arts Center Authority
PCH	Panama City Housing Authority
PSC	Public Service Commission
REV	Department of Revenue
RPC	Regional Planning Council, Northeast Florida
SFW	South Florida Water Management District
SJR	St. Johns River Water Management District
SWF	Southwest Florida Water Management District