

State of Florida
Division of Administrative Hearings

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TWENTY-EIGHTH 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

Appendix 1 indicates that the Division scheduled 37,781 hours of hearing for state, local, and other agencies in FY 2000-01. This represents a 43 percent increase over the 26,482 hearing hours scheduled the preceding fiscal year. When coupled with the decrease in number of cases filed, the trend in DOAH's caseload continues to show that while decreasing in raw number of cases filed, administrative cases continue to increase in length and complexity.

Appendix 1 breaks out by agency the utilization rates of Division resources and demonstrates that, in descending order, eleven agencies utilized 92 percent of the Division's docket: the Department of Health, Agency for Health Care Administration, Department of Business and Professional Regulation, Department of Environmental Protection, Department of Insurance, Department of Management Services, Department of Education, Department of Children and Family Services, Department of Community Affairs, Department of Banking and Finance, and the Department of Transportation. Additionally, contract agencies such as Water Management Districts, cities, and counties have become major 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 major users and are reported separately as well.

The following agencies have notably increased their hearing requests. The Department of Legal Affairs increased 157 percent from 7 cases filed in 2000 to 18 cases filed in 2001. Similarly, the Department of Highway Safety and Motor Vehicles filed 64 cases in 2001, up 37 cases or 137 percent from the 27 cases filed in 2000. The Department of Juvenile Justice increased with 16 cases filed in 2001, compared with 8 cases filed in 2000, or an increase of 100 percent. The Fish and Wildlife Conservation Commission filed 9 cases in 2001, an increase of 80 percent over the 5 cases filed in 2000. Total referrals from the State's Water Management Districts also increased with 73 cases filed in

2001, compared with the 41 cases filed in 2000, an increase of 78 percent. Filings by the Ethics Commission in 2001 increased by 75 percent over the previous fiscal year.

UTILIZATION OF PERSONNEL

The Division has 80 authorized positions comprised of the Director and Chief Judge, the Deputy Chief Judge, 1 Executive Assistant, 3 Court Reporters, 37 Administrative Law Judges, 5 Administrative Assistants, 7 Administrative Secretaries, 1 Budget Officer, 1 Personnel Officer, 1 Administrative Services Director, 1 Accountant, 1 Fiscal Assistant, 1 Purchasing Agent, 1 Data Base Administrator, 1 Office Automation Specialist, 1 Computer Operator, 1 Division Clerk, 2 Deputy Clerk Supervisors, 4 Deputy Clerks, 2 Staff Assistants, 2 Senior Clerks, 1 Clerk Specialist and 4 Clerks.

IN-HOUSE COURT REPORTERS

The Division continues to employ three full-time court reporters. These reporters produced a total of 22,500 pages of transcription in FY 2000-01, an increase of 33 percent over the previous fiscal year.

The combined cost avoidance to state agencies for their utilization of the Division's court reporters rather than private sector reporters for Tallahassee hearings during FY 2000-01 was approximately \$45,000.00. The agencies realizing the greatest court reporting savings were the agencies that utilized the Division's in-house reporters the most.

In addition to the cost avoidance realized by other state agencies the court reporting program generated revenue in excess of \$52,000.00.

HEARING REQUESTS

During calendar year 2001, the Division processed 4,998 hearing requests, slightly under the 5,151 cases filed in 2000. Of the 4,998 cases, 1,938 were Baker Act cases. The remaining 3,060 cases were filed pursuant to Sections 120.535, 120.54, 120.56, and 120.57, Florida Statutes. The cases opened are itemized by agency in the attached Appendix 2.

Notable to the decrease in case filings is the number of referrals from the Department of Labor and Employment Security (DLES). In 2001, DLES referred only 26 cases, a decrease of 48 percent when compared with the 50 referrals in 2000. The 53 referrals by the Department of Transportation in 2001 also represent a decrease of 43 percent when compared with the 93 referrals in 2000. The Department of Health filed 433 cases in 2001, a decrease of 40 percent when compared with the 725 cases filed in 2000.

In 2001 the Division held a total of 3,211 hearings, 184 more than the 3,027 hearings held in 2000. The Division closed 5,180 cases, a slight decrease of 45 cases compared with the 5,225 cases closed in 2000. This is an average of 140 case closures per judge.

In 2001, each Administrative Law Judge handled an average of 135 new cases, conducted an average of 87 hearings, and wrote an average of 140 recommended or final orders of varying length and complexity.

OFFICE AUTOMATION

The primary systems applications for the Division are its Case Management System (CMS) and a full-text retrieval and document indexing application. Secondary applications include word processing, electronic mail and online legal research via the Florida Legal Resource Center, Westlaw and other Internet resources. In October of 2001, the Office of the Judges of Compensation Claims (JCC) was transferred to the Division from the Department of Labor and Employment Security, and development was begun of a JCC case management system and internet site.

OPERATING BUDGET

The Division is 100 percent trust funded. Appendix 3 summarizes the actual and estimated expenditures for the Division's "Adjudication of Disputes" program for FY 2000-01 and FY 2001-02, respectively. Appendix 3 also outlines funds requested in the Division's FY 2002-03 Legislative Budget Request for this 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 those 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. In August 2001, the Division submitted its fifteenth report (see Appendix 1). In FY 2000-01, 37,781 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.

RECOMMENDATIONS CONCERNING THE A.P.A.

Chapter 96-159, Laws of Florida, substantially reorganized the Administrative Procedure Act. The Division has no current recommendations concerning this Act.

Respectfully submitted,



SHARYN L. SMITH
Chief Judge

SLS/cdl

HEARING HOURS SCHEDULED REPORT

FY 2000-2001

For the Period 07/01/00 through 06/30/01

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	CANCELLED/ CONTINUED HEARING	FINAL HEARING	TOTAL HOURS	% OF TOTAL HOURS	PRORATED AMOUNT OF FY 2002-03 LBR
AHCA	7.00	32.50	4,852.00	761.50	5,653.00	17.33624%	\$1,492,636
AGR	0.50	4.00	363.00	12.00	379.50	1.16382%	\$100,204
CMP	1.75	11.75	796.00	136.50	946.00	2.90113%	\$249,785
DBPR	4.75	29.75	3,681.00	549.25	4,264.75	13.07885%	\$1,126,078
DCF	3.50	30.75	1,137.00	325.25	1,496.50	4.58936%	\$395,140
DCA	1.00	8.00	741.50	211.75	962.25	2.95096%	\$254,075
COR	0.00	11.25	80.00	24.75	116.00	0.35574%	\$30,629
DOE	4.75	19.75	1,451.00	232.25	1,707.75	5.23721%	\$450,920
DEP	7.75	31.00	1,762.00	141.25	1,942.00	5.95559%	\$512,772
ETH	0.00	0.25	72.00	29.25	101.50	0.31127%	\$26,800
FWCC	0.00	1.00	112.00	24.25	137.25	0.42091%	\$36,240
GOV	0.00	0.00	28.00	22.50	50.50	0.15487%	\$13,334
DOH	16.25	72.00	7,740.00	735.75	8,564.00	26.26349%	\$2,261,265
HSM	1.75	16.00	369.00	103.25	490.00	1.50270%	\$129,381
INS	2.00	17.25	1,668.00	214.50	1,901.75	5.83216%	\$502,144
JUV	0.50	1.00	36.00	22.25	59.75	0.18324%	\$15,777
LES	2.25	6.75	204.00	106.25	319.25	0.97905%	\$84,296
DLE	0.00	1.00	105.00	31.75	137.75	0.42244%	\$36,372
DLA	0.00	0.00	55.00	4.00	59.00	0.18094%	\$15,579
LOT	0.00	0.00	16.00	0.00	16.00	0.04907%	\$4,225
DMS	8.50	35.25	1,378.00	364.00	1,785.75	5.47642%	\$471,515
PSC	0.75	1.25	8.00	26.50	36.50	0.11194%	\$9,638
REV	0.25	1.50	442.00	64.50	508.25	1.55867%	\$134,200
DOS	0.00	0.75	48.00	8.50	57.25	0.17557%	\$15,116
DOT	7.25	23.25	770.00	88.75	889.25	2.72709%	\$234,800
VET	0.00	0.00	24.00	2.50	26.50	0.08127%	\$6,997
TOTAL	70.50	356.00	27,938.50	4,243.00	32,608.00	100.00000%	\$8,609,918

NOTE: 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.

HEARING HOURS SCHEDULED BY CONTRACT/EDUCATIONAL/OTHER AGENCIES

FY 2000-2001

For the Period 07/01/00 through 06/30/01

AGENCY	PREHEARING CONFERENCE	MOTION HEARING	CANCELLED/ CONTINUED HEARING	FINAL HEARING	TOTAL HOURS	% OF HOURS ALL AGENCIES
CONTRACT	1.50	11.00	881.00	101.25	994.75	2.63295%
EPP	0.00	0.00	8.00	19.50	27.50	0.07279%
NICA	3.25	8.25	136.00	145.50	293.00	0.77553%
OTHER	0.00	21.25	63.00	12.50	96.75	0.25608%
SCHBDS	26.00	50.25	2,698.50	986.00	3,760.75	9.95414%
TOTAL	30.75	90.75	3,786.50	1,264.75	5,172.75	13.69150%

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

EPP: 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 2000-2001 General Appropriations Act

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2001

AGENCY	Jan-June	Jul-Dec	TOTAL
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	8	11	19
Produce disputes	10	20	30
Citrus	1	4	5
Agency Total	19	35	54
Department of Children and Family Services			
Department of Children and Family Services	14	14	28
Developmental Services	13	6	19
Exemption 435.07, position of special trust	12	4	16
Family Safety and Preservation	3	3	6
Office of Licensure and Certification	38	54	92
Non-Baker Act Total	80	81	161
Contract Hearings			
Alachua County	0	1	1
City of Clearwater	2	1	3
County of Hillsborough	1	0	1
Citrus County	2	0	2
County of Leon	0	1	1
County of Monroe	0	2	2
County of Pinellas	3	7	10
City of Tallahassee	1	1	2
Pinellas County Sheriff's Civil Service Board	2	1	3
Tampa Bay Water, a Regional Water Supply Authority	1	0	1
Agency Total	12	14	26
Office of Comptroller			
Division of Securities	2	0	2
Agency Total	2	0	2
Department of Corrections			
Department of Corrections	11	4	15
Agency Total	11	4	15
County School Boards			
Alachua County School Board	1	0	1
Baker County School Board	1	0	1
Bay County School Board	0	1	1
Brevard County School Board	3	6	9
Broward County School Board	13	10	23
Charlotte County School Board	2	0	2
Clay County School Board	1	1	2
Collier County School Board	2	2	4
Miami-Dade County School Board	26	35	61
Duval County School Board	13	5	18
Escambia County School Board	3	0	3
Flagler County School Board	2	4	6
Gadsden County School Board	1	0	1
Gilchrist County School Board	0	1	1
Hernando County School Board	0	1	1
Highlands County School Board	1	3	4
Hillsborough County School Board	6	1	7
Indian River County School Board	0	2	2
Lake County School Board	0	1	1

AGENCY	Jan-June	Jul-Dec	TOTAL
Lee County School Board	5	0	5
Leon County School Board	8	1	9
Manatee County School Board	1	0	1
Marion County School Board	0	1	1
Martin County School Board	1	0	1
Monroe County School Board	1	2	3
Nassau County School Board	1	0	1
Okaloosa County School Board	2	2	4
Orange County School Board	5	6	11
Osceola County School Board	0	4	4
Palm Beach County School Board	15	17	32
Pasco County School Board	1	1	2
Pinellas County School Board	3	3	6
Polk County School Board	3	1	4
St Johns County School Board	3	0	3
St Lucie County School Board	1	1	2
Sarasota County School Board	4	1	5
Seminole County School Board	6	4	10
Volusia County School Board	2	0	2
Wakulla County School Board	1	0	1
Agency Total	138	117	255
Division of Administrative Hearings			
Division of Administrative Hearings	1	1	2
Agency Total	1	1	2
Department of Banking and Finance			
Department of Banking and Finance	10	17	27
Division of Banking	1	1	2
Division of Investigations	0	1	1
Division of Securities and Finance	5	7	12
Agency Total	16	26	42
Department of Community Affairs			
Department of Community Affairs	12	5	17
Florida Housing Finance Corporation	5	15	20
Small Scale Comp Plan Amendment	2	4	6
Agency Total	19	24	43
Department of Environmental Protection			
Department of Environmental Protection	68	51	119
Agency Total	68	51	119
Department of Health			
Department of Health	15	48	63
Board of Acupuncture	1	1	2
Board of Chiropractic	12	3	15
Clinical Laboratory Personnel	1	0	1
Board of Clinical Social Work, Marriage and Family	9	15	24
Division of Children's Medical Services	2	0	2
Board of Dentistry	11	3	14
Environmental Health	4	9	13
Board of Hearing Aid Specialists	1	7	8
Board of Medicine	86	70	156
Board of Massage	5	2	7

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2001

AGENCY	Jan-June	Jul-Dec	TOTAL
Board of Nursing Home Administrators	0	1	1
Board of Nursing	36	29	65
Board of Orthotists and Prosthetists	2	1	3
Board of Opticianry	0	2	2
Board of Optometry	1	2	3
Board of Osteopathic Medicine	5	6	11
Board of Pharmacy	14	10	24
Board of Podiatric Medicine	4	0	4
MQA/Board of Psychology	2	2	4
MQA/Board of Physical Therapy Practice	6	2	8
MQA/Board of Respiratory Therapy	1	0	1
MQA/Board of Speech-Language Pathology, and Audiol	0	2	2
Agency Total	218	215	433
Department of Juvenile Justice			
Department of Juvenile Justice	5	11	16
Agency Total	5	11	16
Department of Legal Affairs			
Florida Elections Commission	6	12	18
Agency Total	6	12	18
Department of Law Enforcement			
Department of Law Enforcement	1	0	1
Criminal Justice Standards and Training	5	19	24
Agency Total	6	19	25
Department of Management Services			
Department of Management Services	2	0	2
Florida Commission on Human Relations	52	108	160
Convicted Vendor List	1	0	1
Division of State Group Insurance	2	0	2
Minority Business Enterprise	1	4	5
Division of Retirement	10	10	20
Agency Total	68	122	190
Department of Education			
Department of Education	3	0	3
Education Practices Commission	24	22	46
Vocational Rehabilitation Services	13	25	38
Agency Total	40	47	87
Department of Lottery			
Department of Lottery	1	1	2
Agency Total	1	1	2
Department of Offender Rehab			
Department of Offender Rehab	0	2	2
Agency Total	0	2	2
Department of State			
Division of Licensing	4	3	7
Agency Total	4	3	7

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2001

AGENCY	Jan-June	Jul-Dec	TOTAL
Department of Transportation			
Department of Transportation	37	16	53
Agency Total	37	16	53
Department of Business and Professional Regulation			
Department of Business and Professional Regulation	7	7	14
Board of Accountancy	4	3	7
Board of Architecture	2	0	2
Board of Auctioneers	0	1	1
Florida State Boxing Commission	1	0	1
Building Code Administrators and Inspectors	3	3	6
Regulatory Council of Community Association Manage	3	0	3
Construction Industry Licensing Board	55	80	135
Board of Cosmetology	0	1	1
Division of Alcoholic Beverages and Tobacco	110	29	139
Division of Real Estate	17	22	39
Electrical Contractors	4	3	7
Florida Real Estate Appraisal Board	1	3	4
Florida Real Estate Commission	1	0	1
Board of Funeral Directors and Embalmers	4	2	6
Division of Hotels and Restaurants	54	23	77
Board of Professional Surveyors and Mappers	3	0	3
Division of Land Sales, Condominiums, and Mobile H	2	0	2
Division of Pari-Mutuel Wagering	5	2	7
Board of Professional Engineers	12	7	19
Board of Veterinary Medicine	5	3	8
Agency Total	293	189	482
Department of Veterans Affairs			
Department of Veterans Affairs	1	1	2
Agency Total	1	1	2
Ethics Commission			
Ethics Commission	6	15	21
Agency Total	6	15	21
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	6	3	9
Agency Total	6	3	9
Office of the Governor			
Office of the Governor	1	0	1
Administration Commission	0	3	3
Agency for Workforce Innovation	0	2	2
Florida Land and Water Adjudicatory Commission	1	2	3
Agency Total	2	7	9
Agency for Health Care Administration			
Agency for Health Care Administration	25	8	33
Bureau of Managed Care	1	0	1
Office of Certificate of Need	24	37	61
Exemption 400.512, home health	3	1	4
Health Care Board	1	0	1
Medicaid Program Integrity	132	94	226

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2001

	Jan-June	Jul-Dec	TOTAL
AGENCY	86	87	173
Office of Licensure and Certification	1	1	2
DH/Phar as of 7-1-97	273	228	501
Agency Total			
Hillsborough Area Rapid Transit Auth	1	0	1
Hillsborough Area Rapid Transit Auth	1	0	1
Agency Total			
Department of Highway Safety and Motor Vehicles	40	5	45
Department of Highway Safety and Motor Vehicles	0	19	19
Section 320.642	40	24	64
Agency Total			
Department of Insurance	57	90	147
Department of Insurance	26	21	47
Neurological Injury Compensation Association	2	3	5
Rate, automobile, and casualty disputes	85	114	199
Agency Total			
Jacksonville Transportation Authority	0	1	1
Jacksonville Transportation Authority	0	1	1
Agency Total			
Department of Labor and Employment Security	1	0	1
Department of Labor and Employment Security	11	14	25
Division of Workers Compensation	12	14	26
Agency Total			
Medical Arbitration	9	8	17
Medical Arbitration	9	8	17
Agency Total			
Not an Agency	1	1	2
Not an Agency	1	0	1
Florida Bar	2	1	3
Agency Total			
Pinellas County Construction Licensing Board	7	1	8
Pinellas County Construction Licensing Board	7	1	8
Agency Total			
Department of Revenue	24	38	62
Department of Revenue	2	17	19
Child Support Enforcement Program	26	55	81
Agency Total			
State Board of Administration	3	0	3
State Board of Administration	3	0	3
Agency Total			
Universities, Colleges, and Schools	0	2	2
Florida A & M University	1	0	1
Florida State University	1	0	1
Manatee Jr. College			

ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2001

AGENCY	Jan-June	Jul-Dec	TOTAL
University of Central Florida	1	0	1
University of Florida	0	1	1
University of South Florida	1	1	2
Agency Total	4	4	8
Water Management Districts			
South Florida Water Management District	4	11	15
St. Johns River Water Management District	4	33	37
Suwannee River Water Management District	2	3	5
Southwest Florida Water Management District	10	6	16
Agency Total	20	53	73
NON BAKER ACT TOTAL	1,541	1,519	3,060
Baker Acts			
Atlantic Shores Healthcare, Inc.	207	188	395
Correctional Mental Health Institute, Zephyrhi	14	4	18
Florida State Hospital	206	201	407
G. Pierce Woods Memorial Hospital	187	130	317
Mental Health Care, Inc.	2	2	4
Northeast Florida State Hospital	385	358	743
Peace River Center	0	4	4
Personal Enrichment Mental Health Services	1	3	4
West Florida Community Care Center	21	25	46
Baker Act Total	1,023	915	1,938

SUMMARY
 Division of Administrative Hearings
 Adjudication of Disputes
 Actual and Estimated Expenditures
 and Legislative Budget Request

<u>Appropriation Category</u>	<u>Actual Expenditures FY 2000-01</u>	<u>Estimated Expenditures FY 2001-02</u>	<u>Requested FY 2002-03</u>
Salaries and Benefits	\$6,200,851	\$6,721,804	\$6,790,204
Other Personal Services	481,634	481,242	481,242
Expenses	1,270,803	1,233,418	1,247,096
Operating Capital Outlay	296,273	71,550	71,550
Special Categories			
Risk Mgmt. Ins.	<u>23,142</u>	<u>19,826</u>	<u>19,826</u>
Total	<u>\$8,272,703</u>	<u>\$8,527,840</u>	<u>\$8,609,918</u>
Positions	80	80	80