
AGENCY OVERVIEW

140 Office of Administrative Hearings

Date: 12/23/2014

Time: 11:51:44

Statutory Authority

North Dakota Century Code Sections 12-59, 37-19.1, 28-32-31, 40-51.2, 40-47-01.1, 54-57-03 and 61-03-22.

Agency Description

The Office of Administrative Hearings is an executive branch agency that provides independent administrative law judges to preside over state and local administrative hearings and related proceedings. Hearings are conducted under authority from the Administrative Agencies Practices Act (North Dakota Century Code Chapter 28-32), specific agency statutes, agency procedural rules, and the Uniform Rules of Administrative Procedure for Adjudicative Proceedings (North Dakota Administrative Code Article 98-02).

Agency Mission Statement

The Office of Administrative Hearings ("OAH") is an executive branch agency that provides independent administrative law judges ("ALJs") to preside as hearing officers over state and local administrative hearings and related proceedings. The mission is to:

- provide ALJs for all state ch. 28-32 agencies required to use OAH services.
- provide ALJs for those state agencies not under ch. 28-32 and units of local government that are required to use OAH services.
- provide ALJs, upon request, for those state agencies that are not required to use OAH services.
- provide ALJs, upon request, for state agency rules hearings.
- provide ALJs, upon request, for any unit of local government.
- provide ALJs, upon request, for any tribal government in this state.
- provide ALJs, upon request, for the judicial branch.

OAH ALJs preside as procedural or substantive ALJs for all state agencies required to use OAH services. A procedural ALJ conducts the hearing and related proceedings, but the agency head, who must be present at the hearing, issues the findings of fact, conclusions of law, and order. A substantive ALJ conducts the hearing and related proceedings and issues recommended findings of fact and conclusions of law, and a recommended order. The agency head issues the final order. For many agency matters, OAH ALJs conduct the hearing and issue the final order. OAH ALJs also preside as procedural or substantive ALJs for those state agencies and units of local government that are not required to use OAH services. They also preside at agency rules hearings, conducting the hearing only.

OAH ALJs conduct hearings under authority from the Administrative Agencies Practices Act, North Dakota Century Code chapter 28-32, specific agency statutes, agency procedural rules, the Uniform Rules of Administrative Procedure for Adjudicative Proceedings, ND Admin. Code article 98-02, and federal statutes and rules.

Agency Performance Measures

Performance measures have been implemented for all agencies for which OAH conducts hearings. Essentially, the performance measures are case processing guidelines, measuring the length of time to "process" various components of administrative proceedings. Although performance measures for conducting administrative hearings are a helpful management tool, because of the inherent variability in hearings, they should be considered as guidelines and not strict performance measures. See 2011-2013 Office of Administrative Hearings Biennial Report for the most recent OAH ALJ performance.

Major Accomplishments

1. Established performance measures for conducting hearings for all user agencies.
2. Continued active participation in national administrative law judge and hearing officer organizations, including the National Association of Hearing Officials, the National Association of Administrative Law Judiciary, and the Central Panel Directors Conference. OAH will host the 2014 Central Panel Directors Conference September 2014.
3. Completed the installation of new case management and billing system during July 2013.

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Future Critical Issues

The scope of OAH jurisdiction (expansion of jurisdiction), i.e., whether independent ALJs should be required for other state agencies besides those now under OAH jurisdiction, continues to be an issue. Legislation has been introduced in the Legislative Assembly over the years to require some exempt agencies to use OAH. A successful initiated measure in 2008 required WSI to use OAH. Legislation has been passed to expand OAH jurisdiction for some local entities. OAH is not proposing any legislation for expansion of jurisdiction; however, OAH needs to continue to be concerned about whether voluntary agency users will continue to voluntarily use OAH.

Another continuing critical issue is whether OAH ALJs should issue final decisions for more agency hearings. OAH now issues final decisions for approximately 50.0 percent of its hearings.

Another critical issue is whether parties in administrative hearings ought to be able to disqualify a designated ALJ or hearing officer once without showing cause for disqualification.

REQUEST SUMMARY

140 Office of Administrative Hearings
Biennium: 2015-2017

Bill#: HB1017

Date: 12/23/2014

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Description	Expenditures 2011-2013 Biennium	Present Budget 2013-2015	Budget Request Change	Requested Budget 2015-2017 Biennium	Optional Budget Request
By Major Program					
Office of Administrative Hearings Services	2,071,720	2,831,896	21,851	2,853,747	0
Total Major Program	2,071,720	2,831,896	21,851	2,853,747	0
By Line Item					
Salaries and Wages	913,809	1,058,258	46,466	1,104,724	0
Accrued Leave Payments	0	24,615	(24,615)	0	0
Operating Expenses	1,157,911	1,749,023	0	1,749,023	0
Total Line Items	2,071,720	2,831,896	21,851	2,853,747	0
By Funding Source					
General Fund					
Federal Funds					
Special Funds	2,071,720	2,831,896	21,851	2,853,747	0
Total Funding Source	2,071,720	2,831,896	21,851	2,853,747	0
Total FTE	5.00	5.00	0.00	5.00	0.00

REQUEST DETAIL

140 Office of Administrative Hearings

Bill#: HB1017

Date: 12/23/2014

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Biennium: 2015-2017

Description	Expenditures 2011-2013 Biennium	Present Budget 2013-2015	Budget Request Change	Requested Budget 2015-2017 Biennium	Optional Budget Request
Salaries and Wages					
Salaries - Permanent	685,393	708,291	108,569	816,860	0
Temporary Salaries	0	91,341	(88,840)	2,501	0
Overtime	2,406	2,500	0	2,500	0
Fringe Benefits	226,010	256,126	26,737	282,863	0
Total	913,809	1,058,258	46,466	1,104,724	0
Salaries and Wages					
General Fund	0	0	0	0	0
Federal Funds	0	0	0	0	0
Special Funds	913,809	1,058,258	46,466	1,104,724	0
Total	913,809	1,058,258	46,466	1,104,724	0
Accrued Leave Payments					
Salaries - Permanent	0	24,615	(24,615)	0	0
Total	0	24,615	(24,615)	0	0
Accrued Leave Payments					
General Fund	0	0	0	0	0
Federal Funds	0	0	0	0	0
Special Funds	0	24,615	(24,615)	0	0
Total	0	24,615	(24,615)	0	0
Operating Expenses					
Travel	18,503	24,100	0	24,100	0
Supplies - IT Software	4,512	15,200	0	15,200	0
Supply/Material-Professional	2	2,244	0	2,244	0
Food and Clothing	0	431	(431)	0	0
Miscellaneous Supplies	357	3,235	0	3,235	0
Office Supplies	2,316	7,292	0	7,292	0
Postage	10,085	11,400	0	11,400	0
Printing	525	2,785	0	2,785	0
IT Equip Under \$5,000	7,862	13,000	0	13,000	0
Office Equip & Furn Supplies	1,086	9,950	0	9,950	0
Utilities	47	400	0	400	0
Insurance	782	1,000	0	1,000	0
Rentals/Leases-Equip & Other	2,379	5,579	0	5,579	0
Rentals/Leases - Bldg/Land	67,005	71,823	4,017	75,840	0
Repairs	75	1,500	0	1,500	0

REQUEST DETAIL

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Biennium: 2015-2017

Description	Expenditures 2011-2013 Biennium	Present Budget 2013-2015	Budget Request Change	Requested Budget 2015-2017 Biennium	Optional Budget Request
IT - Data Processing	41,232	49,227	0	49,227	0
IT - Communications	8,945	15,020	0	15,020	0
IT Contractual Svcs and Rprs	6,330	22,260	(12,260)	10,000	0
Professional Development	7,465	15,000	0	15,000	0
Operating Fees and Services	2,017	3,000	0	3,000	0
Fees - Professional Services	976,386	1,474,577	8,674	1,483,251	0
Total	1,157,911	1,749,023	0	1,749,023	0
Operating Expenses					
General Fund	0	0	0	0	0
Federal Funds	0	0	0	0	0
Special Funds	1,157,911	1,749,023	0	1,749,023	0
Total	1,157,911	1,749,023	0	1,749,023	0
Funding Sources					
General Fund	0	0	0	0	0
Federal Funds	0	0	0	0	0
Special Funds	2,071,720	2,831,896	21,851	2,853,747	0
Total Funding Sources	2,071,720	2,831,896	21,851	2,853,747	0

CHANGE PACKAGE SUMMARY

140 Office of Administrative Hearings

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Biennium: 2015-2017

Description	Priority	FTE	General Fund	Federal Funds	Special Funds	Total Funds
Base Budget Changes						
Ongoing Budget Changes						
A-A 1 Reductions - Operations		0.00	0	0	(12,691)	(12,691)
A-A 2 Increases - Operations		0.00	0	0	12,691	12,691
Base Payroll Change		0.00	0	0	21,851	21,851
Total Ongoing Budget Changes		0.00	0	0	21,851	21,851
Total Base Budget Changes		0.00	0	0	21,851	21,851

BUDGET CHANGES NARRATIVE

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Change Group: A	Change Type: A	Change No: 1	Priority: 2
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Reductions - Operations

The reductions of Contractual Services and of Food and Clothing are due to the one-time nature of the level of spending during 2013-15.

Change Group: A	Change Type: A	Change No: 2	Priority: 1
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Increases - Operations

OAH renewed the lease for its office space on July 1, 2014, for a five-year term. The lease included increases in rent and services.

Professional service expenditures are almost entirely payments to contract ALJs. The WSI caseload continues to increase. OAH received 75 more WSI requests between July 1, 2013, and July 29, 2014, than it did during the same period the previous biennium. The costs for the hearing and, correspondingly, OAH's expenditures increase. Contract ALJs continue to handle between 90 and 97 percent of the WSI caseload.

Change Group: R	Change Type: A	Change No: 100	Priority:
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Executive compensation adjustment package

This budget change provides funding for recommended 2015-17 compensation adjustments.