

BILL ANALYSIS

H.B. 2349
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The 72nd Legislature, Regular Session, 1991 created the State Office of Administrative Hearings (SOAH) to eliminate a potential conflict in having the same state agency that establishes, implements, and enforces policies also sitting in judgment of a person affected by those policies. The intent of the legislature in creating SOAH was to provide an independent administrative hearing for state agencies and Texas citizens. However, in the majority of cases heard before SOAH, the ruling is almost always in favor of the state agency.

In August 2002, the Sunset Advisory Commission considered whether SOAH could and should assume additional hearing responsibilities. At the same time, commission staff found that although SOAH proved successful with regard to its centralized hearing function, efficiency, and providing a neutral setting for hearings, SOAH's working records were found to be too accessible to the public, while decisions and final orders were found to be not accessible enough. As a result, a key recommendation of the commission was to create an exception in the public information law that would allow for a SOAH judge's working notes and drafts of proposals for decisions and orders to be made accessible, and would require the agency to post its decisions and final orders on its website. The purpose of this recommendation was to increase transparency and accountability in decisions made by SOAH.

H.B. 2349 requires SOAH to post on its website at least once each quarter a report on the total number of cases heard by each administrative law judge employed by SOAH during the previous quarter, and sets forth the information that the report is required to include.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2349 amends the Government Code to require the State Office of Administrative Hearings (SOAH) to post on its Internet website at least once each quarter a report on the total number of cases heard by each administrative law judge employed by SOAH during the previous quarter. The bill requires a report to be posted not later than the 30th day after the last day of the quarter and to include the name of each administrative law judge; the number of cases heard by the administrative law judge during the quarter; the municipality, county, or region in which the hearing was conducted or the final ruling was made; the category SOAH assigned to each case; the number of cases in which the administrative law judge's decision was favorable to the state; and the number of cases in which the administrative law judge's decision in favor of the state was appealed to the courts and upheld by the reviewing court. The bill requires each administrative law judge employed by SOAH to provide the required information to SOAH not later than the 10th day after the last day of each quarter.

EFFECTIVE DATE

September 1, 2009.