

By: Brown of Brazos

H.B. No. 998

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the hearing and final decision of certain occupational
3 licensing contested cases by a State Office of Administrative
4 Hearings administrative law judge.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 2001.054(a), Government Code, is amended
7 to read as follows:

8 (a) The provisions of this chapter concerning contested
9 cases apply to the grant, denial, or renewal of a license that is
10 required to be preceded by notice and opportunity for hearing. The
11 denial, suspension, revocation, annulment, or refusal to renew an
12 occupational license or the imposition of an administrative penalty
13 or other sanction against an occupational license holder is
14 required to be preceded by notice and opportunity for hearing, and
15 the contested case hearing must be conducted in accordance with
16 Section 2001.058(f) by an administrative law judge employed by the
17 State Office of Administrative Hearings.

18 SECTION 2. Section 2001.058(f), Government Code, is amended
19 to read as follows:

20 (f) This subsection applies only to a contested case
21 described by Section 2001.054(a) [A state agency by rule may
22 provide that, in a contested case before the agency] that concerns
23 licensing in relation to an occupational license and that is not
24 disposed of by stipulation, agreed settlement, or consent order.

1 Notwithstanding Subsection (e) or any other law, the administrative
2 law judge shall render the final decision in the contested case, and
3 [~~. If a state agency adopts such a rule,~~] the following provisions
4 apply [~~to contested cases covered by the rule~~]:

5 (1) the administrative law judge shall render the
6 decision that may become final under Section 2001.144 not later
7 than the 60th day after the latter of the date on which the hearing
8 is finally closed or the date by which the judge has ordered all
9 briefs, reply briefs, and other posthearing documents to be filed,
10 and the 60-day period may be extended only with the consent of all
11 parties, including the occupational licensing agency;

12 (2) the administrative law judge shall include in the
13 findings of fact and conclusions of law a determination whether the
14 license at issue is primarily a license to engage in an occupation
15 and a determination whether the case concerns an issue described by
16 Section 2001.054(a);

17 (3) the State Office of Administrative Hearings is the
18 state agency with which a motion for rehearing or a reply to a
19 motion for rehearing is filed under Section 2001.146 and is the
20 state agency that acts on the motion or extends a time period under
21 Section 2001.146;

22 (4) the State Office of Administrative Hearings is the
23 state agency responsible for sending a copy of the decision that may
24 become final under Section 2001.144 or an order ruling on a motion
25 for rehearing to the parties, including the occupational licensing
26 agency, in accordance with Section 2001.142; and

27 (5) the occupational licensing agency and any other

1 party to the contested case is entitled to obtain judicial review of
2 the final decision in accordance with this chapter.

3 SECTION 3. Section 2003.021, Government Code, is amended by
4 adding Subsection (h) to read as follows:

5 (h) The office shall conduct all hearings and render the
6 final decision in contested cases under Chapter 2001 involving the
7 denial, suspension, revocation, annulment, or refusal to renew an
8 occupational license or the imposition of an administrative penalty
9 or other sanction against an occupational license holder, as
10 provided by Section 2001.054(a).

11 SECTION 4. The changes in law made by this Act do not apply
12 in relation to a matter described by Section 2001.054(a),
13 Government Code, as amended by this Act, if before the effective
14 date of this Act the state agency gave notice of its intended action
15 to the individual affected and the affected individual was entitled
16 to an opportunity for a hearing conducted under Chapter 2001,
17 Government Code, before the action could be taken. A matter
18 described by this section is governed by the law in effect on the
19 date the notice was given, and the former law is continued in effect
20 for that purpose.

21 SECTION 5. This Act takes effect September 1, 2009.