

BILL ANALYSIS

H.B. 2580
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been noted that the use of videoconferencing technology and other changes made to conduct administrative hearings in response to the pandemic have led to improvements in the hearing process. Such changes should be codified in order to continue these improvements, and there are also several other changes needed to clean up issues regarding the State Office of Administrative Hearings (SOAH). H.B. 2580 makes several changes relating to the operations of SOAH, including changes regarding the use of videoconference and electronic filing technology, disaster response, access to criminal history record information, the deputy chief administrative law judge, and the elimination of certain memorandum of understanding requirements.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 2580 amends the Government Code to entitle the State Office of Administrative Hearings (SOAH) to obtain from the Department of Public Safety (DPS) criminal history record information maintained by DPS or another criminal justice agency that relates to the following persons:

- an employee of, or an applicant for employment with, SOAH;
- a consultant, contract employee, volunteer, or intern of SOAH, or a applicant to serve in one of those capacities; or
- a current or proposed contractor or subcontractor of SOAH.

The bill prohibits the release or disclosure of criminal history record information obtained by SOAH to any person except by court order or with the consent of the person who is the subject of the information. The bill requires SOAH to promptly destroy criminal history record information obtained from DPS after a final determination is made in the matter for which the information is obtained.

H.B. 2580 requires the chief administrative law judge of SOAH to appoint a deputy chief administrative law judge to serve at the chief judge's pleasure and sets out eligibility requirements for appointment to that deputy position. The bill requires the deputy chief administrative law judge to do the following:

- perform the duties the chief administrative law judge is required by law to perform when the chief administrative law judge is absent or unable to act;

- supervise administrative law judges employed by SOAH, including individuals appointed as senior or master administrative law judges; and
- perform other duties assigned by the chief administrative law judge.

H.B. 2580 authorizes the chief administrative law judge to modify or suspend a procedure governing the conduct of an administrative hearing or alternative dispute resolution procedure that is affected by a disaster during the period for which a disaster declaration issued by the governor is in effect. The order may not extend for more than 30 days from the date on which the order was signed, unless renewed by the chief administrative law judge, and must conform, to the extent practicable, to the requirements prescribed by law for an order issued by the Texas Supreme Court modifying or suspending procedures for court proceedings affected by a disaster. The bill authorizes the deputy chief administrative law judge to act on the chief judge's behalf if a disaster prevents the chief administrative law judge from acting under these provisions.

H.B. 2580 authorizes the chief administrative law judge, the deputy chief administrative law judge, or an administrative law judge assigned to preside over a contested case or alternative dispute resolution proceeding to order the use of videoconferencing technology to conduct a SOAH proceeding. The presiding judge and the parties and their attorneys may participate in the proceeding from any location when using videoconferencing technology. The bill authorizes SOAH to assist a party in attending a proceeding conducted by videoconferencing technology by making the technology available for the party's use at the permanent location of the office nearest to the party in certain circumstances. The bill repeals the requirement for SOAH rules regarding procedures to verify the identity of a witness who is to appear by telephone.

H.B. 2580 authorizes SOAH to deliver a decision or order using the following methods:

- an electronic filing system approved by the Office of Court Administration of the Texas Judicial System; or
- another method of electronic delivery, including by email sent to the current email address of the party's attorney of record or, if the party is not represented by counsel, to the party's current email address.

H.B. 2580 amends the Transportation Code to replace the requirement for consent of DPS and the person requesting the hearing to hold hearings by telephone conference call with an option for the hearings to be held by telephone or video conference call if the administrative law judge presiding over the hearing issues an order regarding the use of teleconference or videoconferencing technology. This change applies to:

- a hearing regarding the administrative suspension of a driver's license for failure to pass a test for intoxication; and
- a hearing regarding the suspension or denial of a driver's license on refusal to submit a specimen following an arrest for certain alcohol-related offenses.

H.B. 2580 eliminates requirements under the Agriculture Code, Insurance Code, and Labor Code for the chief administrative law judge to enter into memorandums of understanding with the commissioner of agriculture, commissioner of insurance, and division of workers' compensation, respectively, governing procedures for hearings conducted by SOAH on behalf of the applicable agency. The bill repeals Government Code provisions that do the following:

- establish requirements regarding the manner in which SOAH conducts hearings under the Agriculture Code and under applicable workers' compensation law;
- require SOAH and the Texas Department of Insurance to enter into an interagency contract under the Interagency Cooperation Act to pay the costs of hearing workers' compensation cases;
- require SOAH to track and forecast hourly usage of its services under an interagency contract that provides for quarterly payments by a referring agency; and
- require SOAH to review the status of pending tax hearing cases with the comptroller of public accounts and other appropriate staff at least quarterly.

The bill also removes Agriculture Code provisions relating to an interagency contract for reimbursement of SOAH by the Texas Department of Agriculture.

H.B. 2580 repeals Section 40.004, Insurance Code, and the following provisions of the Government Code:

- Sections 2003.021(c) and (d);
- Section 2003.024(a-2);
- Section 2003.050(c); and
- Section 2003.108.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.