

By: Leach

H.B. No. 2580

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the operation and administration of the State Office of
3 Administrative Hearings, including procedures during a declared
4 disaster and the use of videoconferencing technology to conduct
5 administrative hearings.

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

7 SECTION 1. Section 12.032, Agriculture Code, is amended to
8 read as follows:

9 Sec. 12.032. HEARINGS CONDUCTED BY [COOPERATION WITH] STATE
10 OFFICE OF ADMINISTRATIVE HEARINGS. (a) ~~[The commissioner and the~~
11 ~~chief administrative law judge of the State Office of~~
12 ~~Administrative Hearings by rule shall adopt a memorandum of~~
13 ~~understanding under which the State Office of Administrative~~
14 ~~Hearings conducts hearings for the department under this code. The~~
15 ~~memorandum of understanding shall require the chief administrative~~
16 ~~law judge, the department, and the commissioner to cooperate in~~
17 ~~connection with the hearings under this code and may authorize the~~
18 ~~State Office of Administrative Hearings to perform any~~
19 ~~administrative act, including giving of notice, that is required to~~
20 ~~be performed by the department or the commissioner under this code.~~
21 ~~The memorandum of understanding shall also require that hearings~~
22 ~~under this section be held at a location agreed upon by the State~~
23 ~~Office of Administrative Hearings and the department.~~

24 [~~(b)~~] For a hearing conducted by the State Office of

1 Administrative Hearings under this code, the department and the
2 commissioner retain the authority to decide whether the
3 administrative law judge conducting the hearing for the State
4 Office of Administrative Hearings shall:

5 (1) enter the final decision in the case after
6 completion of the hearing; or

7 (2) propose a decision to the department or the
8 commissioner for final consideration.

9 (b) [~~(c)~~] Any provision of this code that provides that the
10 department or the commissioner take an action at a hearing means:

11 (1) that the department or the commissioner shall take
12 the action after the receipt of a proposal for decision from the
13 State Office of Administrative Hearings regarding the hearing
14 conducted by that office; or

15 (2) if so directed by the department or the
16 commissioner, the State Office of Administrative Hearings shall
17 enter the final decision in the case after completion of the
18 hearing.

19 (c) [~~(d)~~] The department shall prescribe rules of procedure
20 for any cases not heard by the State Office of Administrative
21 Hearings.

22 [~~(e)~~] ~~The department by interagency contract shall reimburse~~
23 ~~the State Office of Administrative Hearings for the costs incurred~~
24 ~~in conducting administrative hearings for the department. The~~
25 ~~department may pay an hourly fee for the costs of conducting these~~
26 ~~hearings or a fixed annual fee negotiated biennially by the~~
27 ~~department and the State Office of Administrative Hearings to~~

1 ~~coincide with the department's legislative appropriations~~
2 ~~request.]~~

3 (d) [(f)] This section does not apply to hearings held under
4 Chapter 103.

5 SECTION 2. Subchapter F, Chapter 411, Government Code, is
6 amended by adding Section 411.1411 to read as follows:

7 Sec. 411.1411. ACCESS TO CRIMINAL HISTORY RECORD
8 INFORMATION: STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) In this
9 section, "office" means the State Office of Administrative
10 Hearings.

11 (b) The office is entitled to obtain from the department
12 criminal history record information maintained by the department or
13 another criminal justice agency that relates to a person who is:

14 (1) an employee of, or an applicant for employment
15 with, the office;

16 (2) a consultant, contract employee, volunteer, or
17 intern of the office, or an applicant to serve in one of those
18 capacities; or

19 (3) a current or proposed contractor or subcontractor
20 of the office.

21 (c) Criminal history record information obtained by the
22 office under Subsection (b) may not be released or disclosed to any
23 person except by court order or with the consent of the person who
24 is the subject of the criminal history record information.

25 (d) The office shall promptly destroy criminal history
26 record information obtained under Subsection (b) after a final
27 determination is made in the matter for which the information is

1 obtained.

2 SECTION 3. Subchapter C, Chapter 2003, Government Code, is
3 amended by adding Section 2003.0401 to read as follows:

4 Sec. 2003.0401. DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE. (a)
5 The chief administrative law judge shall appoint a deputy chief
6 administrative law judge. To be eligible for appointment as a
7 deputy chief administrative law judge, an individual must:

8 (1) be licensed to practice law in this state; and
9 (2) meet other requirements prescribed by the chief
10 administrative law judge.

11 (b) The deputy chief administrative law judge shall:

12 (1) perform the duties the chief administrative law
13 judge is required by law to perform when the chief administrative
14 law judge is absent or unable to act;

15 (2) supervise administrative law judges employed by
16 the office, including individuals appointed as senior or master
17 administrative law judges under Section 2003.0411; and

18 (3) perform other duties assigned by the chief
19 administrative law judge.

20 (c) The deputy chief administrative law judge serves at the
21 pleasure of the chief administrative law judge.

22 SECTION 4. Section 2003.041(c), Government Code, is amended
23 to read as follows:

24 (c) An administrative law judge employed by the office is
25 not responsible to or subject to the supervision, direction, or
26 indirect influence of any person other than the chief
27 administrative law judge or a deputy chief administrative law

1 judge, or [a] senior or master administrative law judge, designated
2 by the chief administrative law judge. In particular, an
3 administrative law judge employed by the office is not responsible
4 to or subject to the supervision, direction, or indirect influence
5 of an officer, employee, or agent of another state agency who
6 performs investigative, prosecutorial, or advisory functions for
7 the other agency.

8 SECTION 5. Section 2003.0411(a), Government Code, is
9 amended to read as follows:

10 (a) The chief administrative law judge may appoint senior or
11 master administrative law judges to perform duties assigned by the
12 chief administrative law judge or the deputy chief administrative
13 law judge.

14 SECTION 6. Section 2003.045, Government Code, is amended to
15 read as follows:

16 Sec. 2003.045. OVERSIGHT OF ADMINISTRATIVE LAW JUDGES. The
17 chief administrative law judge or deputy chief administrative law
18 judge may designate senior or master administrative law judges to
19 oversee the training, evaluation, discipline, and promotion of
20 administrative law judges employed by the office.

21 SECTION 7. Subchapter C, Chapter 2003, Government Code, is
22 amended by adding Section 2003.0501 to read as follows:

23 Sec. 2003.0501. MODIFICATION OR SUSPENSION OF CERTAIN
24 PROVISIONS RELATING TO ADMINISTRATIVE PROCEEDINGS AFFECTED BY
25 DISASTER. (a) In this section, "disaster" has the meaning assigned
26 by Section 418.004.

27 (b) Notwithstanding any other law, the chief administrative

1 law judge may modify or suspend a procedure governing the conduct of
2 an administrative hearing or alternative dispute resolution
3 procedure authorized by this chapter that is affected by a disaster
4 during the period for which a disaster declaration issued by the
5 governor is in effect.

6 (c) An order of the chief administrative law judge issued
7 under this section may not extend for more than 30 days from the
8 date on which the order was signed unless renewed by the chief
9 administrative law judge.

10 (d) If a disaster prevents the chief administrative law
11 judge from acting under this section, the deputy chief
12 administrative law judge may act on behalf of the chief
13 administrative law judge.

14 (e) To the extent practicable, an order issued under this
15 section shall conform to the requirements prescribed by law for an
16 order issued by the supreme court of this state under Section
17 [22.0035](#).

18 SECTION 8. Subchapter C, Chapter 2003, Government Code, is
19 amended by adding Sections 2003.0551 and 2003.0552 to read as
20 follows:

21 Sec. 2003.0551. USE OF VIDEOCONFERENCING TECHNOLOGY FOR
22 ADMINISTRATIVE PROCEEDINGS. (a) In this section,
23 "videoconferencing technology" has the meaning assigned by Section
24 [402.0213](#).

25 (b) Notwithstanding any other law, the chief administrative
26 law judge, deputy chief administrative law judge, or an
27 administrative law judge assigned to preside over a contested case

1 or alternative dispute resolution proceeding may order the use of
2 videoconferencing technology to conduct a proceeding the office is
3 authorized to conduct. The presiding judge and the parties and
4 their attorneys may participate in the proceeding from any location
5 when using videoconferencing technology.

6 (c) The office may assist a party in attending a proceeding
7 conducted by videoconferencing technology by making the technology
8 available for the party's use at the permanent location of the
9 office nearest to the party if:

10 (1) the party:

11 (A) is not represented by counsel; or

12 (B) is unable to participate in the proceeding
13 due to insufficient access to videoconferencing technology; and

14 (2) making the technology available does not pose a
15 credible risk to the health or safety of employees or other persons
16 physically present at the office.

17 Sec. 2003.0552. USE OF ELECTRONIC FILING TECHNOLOGY FOR
18 SERVICE OF ADMINISTRATIVE DECISIONS AND ORDERS. Notwithstanding
19 any other law, the office may deliver a decision or order issued by
20 the office using:

21 (1) an electronic filing system, as defined by Section
22 72.031, that is approved by the Office of Court Administration of
23 the Texas Judicial System; or

24 (2) a method of electronic delivery other than the
25 system described by Subdivision (1), including by e-mail sent to
26 the current e-mail address of the party's attorney of record or, if
27 the party is not represented by counsel, to the party's current

1 e-mail address.

2 SECTION 9. Section [402.073](#), Labor Code, is amended to read
3 as follows:

4 Sec. 402.073. HEARINGS CONDUCTED BY [~~COOPERATION WITH~~]
5 STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) [~~The commissioner~~
6 ~~and the chief administrative law judge of the State Office of~~
7 ~~Administrative Hearings shall adopt a memorandum of understanding~~
8 ~~governing administrative procedure law hearings under this~~
9 ~~subtitle conducted by the State Office of Administrative Hearings~~
10 ~~in the manner provided for a contested case hearing under Chapter~~
11 ~~2001, Government Code. The memorandum of understanding must~~
12 ~~address the payment of costs by parties to a medical fee dispute~~
13 ~~under Section [413.0312](#).~~

14 [~~(b)~~] In a case in which a hearing is conducted by the State
15 Office of Administrative Hearings under Section [413.031](#) or [413.055](#),
16 the administrative law judge who conducts the hearing for the State
17 Office of Administrative Hearings shall enter the final decision in
18 the case after completion of the hearing.

19 (b) [~~(c)~~] In a case in which a hearing is conducted in
20 conjunction with Section [~~402.072,~~] [407.046](#), [408.023](#), [415.0215](#), or
21 [415.034](#), and in other cases under this subtitle that are not subject
22 to Subsection (a) [~~(b)~~], the administrative law judge who conducts
23 the hearing for the State Office of Administrative Hearings shall
24 propose a decision to the commissioner for final consideration and
25 decision by the commissioner.

26 (c) [~~(d)~~] The notice of the commissioner's order must
27 include a statement of the right of the person to judicial review of

1 the order.

2 (d) [~~(e)~~] In issuing an order under this section, the
3 commissioner shall comply with the requirements applicable to a
4 state agency under Section 2001.058, Government Code.

5 SECTION 10. Section 524.034, Transportation Code, is
6 amended to read as follows:

7 Sec. 524.034. HEARING LOCATION. A hearing under this
8 subchapter shall be held:

9 (1) at a location designated by the State Office of
10 Administrative Hearings:

11 (A) in the county of arrest if the arrest
12 occurred in a county with a population of 300,000 or more; or

13 (B) in the county in which the person is alleged
14 to have committed the offense for which the person was arrested or
15 not more than 75 miles from the county seat of the county in which
16 the person was arrested; or

17 (2) if the administrative law judge presiding over the
18 hearing issues an order under Section 2003.0551, Government Code
19 [with the consent of the person and the department], by telephone or
20 video conference call.

21 SECTION 11. Section 724.041(e), Transportation Code, is
22 amended to read as follows:

23 (e) A hearing shall be held:

24 (1) at a location designated by the State Office of
25 Administrative Hearings:

26 (A) in the county of arrest if the county has a
27 population of 300,000 or more; or

1 (B) in the county in which the person was alleged
2 to have committed the offense for which the person was arrested or
3 not more than 75 miles from the county seat of the county of arrest
4 if the population of the county of arrest is less than 300,000; or

5 (2) if the administrative law judge presiding over the
6 hearing issues an order under Section 2003.0551, Government Code
7 ~~[with the consent of the person requesting the hearing and the~~
8 ~~department]~~, by telephone or video conference call.

9 SECTION 12. The following provisions are repealed:

10 (1) Sections 2003.021(c) and (d), 2003.024(a-2),
11 2003.050(c), and 2003.108, Government Code; and

12 (2) Section 40.004, Insurance Code.

13 SECTION 13. This Act takes effect immediately if it
14 receives a vote of two-thirds of all the members elected to each
15 house, as provided by Section 39, Article III, Texas Constitution.
16 If this Act does not receive the vote necessary for immediate
17 effect, this Act takes effect September 1, 2021.