

By: Harrison

H.B. No. 4254

A BILL TO BE ENTITLED

AN ACT

relating to decisions of an administrative law judge of the State Office of Administrative Hearings in contested cases.

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

SECTION 1. Sections 2001.058(e), (e-1), and (f), Government Code, are amended to read as follows:

(e) ~~[A state agency may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative judge, only if the agency determines:~~

~~[(1) that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies provided under Subsection (c), or prior administrative decisions,~~

~~[(2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed,~~  
~~or~~

~~[(3) that a technical error in a finding of fact should be changed.~~

~~[The agency shall state in writing the specific reason and legal basis for a change made under this subsection.~~

~~[(e-1)]~~ Notwithstanding any other law, the administrative law judge who conducts a contested case hearing shall render the final decision in the contested case. The final decision rendered

1 by the administrative law judge is considered a final decision of  
2 the state agency on behalf of which the hearing is being conducted.  
3 A [Subsection (e), a] state agency may not change a finding of fact  
4 or conclusion of law made by the administrative law judge and may  
5 not vacate or modify an order of an administrative law judge [that  
6 awards attorney's fees and costs under Section 2001.903].

7 (f) The [A state agency by rule may provide that, in a  
8 contested case before the agency that concerns licensing in  
9 relation to an occupational license and that is not disposed of by  
10 stipulation, agreed settlement, or consent order, the  
11 administrative law judge shall render the final decision in the  
12 contested case. If a state agency adopts such a rule, the]  
13 following provisions apply to contested cases finally decided by  
14 the administrative law judge [covered by the rule]:

15 (1) the administrative law judge shall render the  
16 decision that may become final under Section 2001.144 not later  
17 than the 60th day after the latter of the date on which the hearing  
18 is finally closed or the date by which the judge has ordered all  
19 briefs, reply briefs, and other posthearing documents to be filed,  
20 and the 60-day period may be extended only with the consent of all  
21 parties[~~, including the occupational licensing agency~~];

22 (2) the administrative law judge's decision [~~judge~~]  
23 shall include [~~in the~~] findings of fact and conclusions of law [~~a~~  
24 ~~determination whether the license at issue is primarily a license~~  
25 ~~to engage in an occupation~~];

26 (3) the State Office of Administrative Hearings is the  
27 state agency with which a motion for rehearing or a reply to a

1 motion for rehearing is filed under Section 2001.146 and is the  
2 state agency that acts on the motion or extends a time period under  
3 Section 2001.146;

4 (4) the State Office of Administrative Hearings is the  
5 state agency responsible for sending a copy of the decision that may  
6 become final under Section 2001.144 or an order ruling on a motion  
7 for rehearing to the parties [~~including the occupational licensing~~  
8 ~~agency,~~] in accordance with Section 2001.142; and

9 (5) the state [~~occupational licensing~~] agency and any  
10 other party to the contested case is entitled to obtain judicial  
11 review of the final decision in accordance with this chapter.

12 SECTION 2. Section 2003.042(a), Government Code, is amended  
13 to read as follows:

14 (a) An administrative law judge employed by the office or a  
15 temporary administrative law judge may:

16 (1) administer an oath;

17 (2) take testimony;

18 (3) rule on a question of evidence;

19 (4) issue an order relating to discovery or another  
20 hearing or prehearing matter, including an order imposing a  
21 sanction;

22 (5) issue an order that refers a case to an alternative  
23 dispute resolution procedure, determines how the costs of the  
24 procedure will be apportioned, and appoints an impartial third  
25 party as described by Section 2009.053 to facilitate that  
26 procedure;

27 (6) issue a proposal for decision that includes

1 findings of fact and conclusions of law;

2 (7) [~~if expressly authorized by a state agency rule~~  
3 ~~adopted under Section 2001.058(f),~~] make the final decision in a  
4 contested case;

5 (8) serve as an impartial third party as described by  
6 Section 2009.053 for a dispute referred by an administrative law  
7 judge, unless one of the parties objects to the appointment; and

8 (9) serve as an impartial third party as described by  
9 Section 2009.053 for a dispute referred by a government agency  
10 under a contract.

11 SECTION 3. The following provisions of the Government Code  
12 are repealed:

13 (1) Section 2001.058(d-1); and

14 (2) Section 2003.051.

15 SECTION 4. The changes in law made by this Act apply only to  
16 a contested case hearing that is commenced on or after the effective  
17 date of this Act. A contested case hearing commenced before that  
18 date is governed by the law in effect on the date the hearing  
19 commenced, and the former law is continued in effect for that  
20 purpose.

21 SECTION 5. This Act takes effect September 1, 2023.