

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 629

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO HEARING OFFICERS; AMENDING CHAPTER 52, TITLE 67, IDAHO CODE, BY
2 THE ADDITION OF A NEW SECTION 67-5242A, IDAHO CODE, TO ESTABLISH PROVI-
3 SIONS REGARDING THE APPOINTMENT OF HEARING OFFICERS BY STATE AGENCIES;
4 AMENDING SECTION 67-5701, IDAHO CODE, TO PROVIDE ADDITIONAL DUTIES OF
5 THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION REGARDING AGENCY HEAR-
6 ING OFFICERS; PROVIDING EFFECTIVE DATES AND PROVIDING AUTHORIZATION
7 FOR RULEMAKING.
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Chapter 52, Title 67, Idaho Code, be, and the same is
11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
12 ignated as Section 67-5242A, Idaho Code, and to read as follows:

13 67-5242A. APPOINTMENT OF HEARING OFFICERS. (1) Upon the initiation of
14 a contested case proceeding in which a state agency is a party, a hearing of-
15 ficer shall be assigned for the case as provided in this section. The state
16 agency shall request the department of administration to draw and assign to
17 the state agency a qualified hearing officer from the top of a register of
18 hearing officers. The person so selected shall then have his or her name
19 placed at the bottom of the register maintained by the department of adminis-
20 tration except as otherwise provided for in this subsection. All hearing of-
21 ficers shall be licensed attorneys in this state, shall have signed the mas-
22 ter hearing officer contract provided for in section 67-5701(3), Idaho Code,
23 and will be paid in accordance with said contract from funds of the agency in
24 which the contested case was initiated. Disqualification of a hearing of-
25 ficer shall be as provided in section 67-5252, Idaho Code. In the event the
26 hearing officer selected is disqualified or recuses himself or herself, the
27 next hearing officer at the top of the department of administration's reg-
28 ister shall be selected for the case and the disqualified or recused hearing
29 officer shall return to the top of the register.

30 (2) The provisions of subsection (1) of this section shall not apply to
31 the department of labor or the department of water resources.

32 (3) Technical expert. In the event the hearing officer finds that the
33 contested case requires particular technical expertise, the hearing officer
34 may appoint an impartial technical expert to assist such hearing officer if
35 the parties to the contested case agree, the cost of which shall be borne by
36 the agency unless the parties stipulate otherwise.

37 (4) The provisions of this section shall control over any existing and
38 contrary provision of law or rule.

39 SECTION 2. That Section 67-5701, Idaho Code, be, and the same is hereby
40 amended to read as follows:

1 67-5701. DEPARTMENT CREATED -- APPOINTMENT OF DIRECTOR -- DU-
2 TIES. (1) There is hereby created the department of administration. The
3 governor shall, subject to the advice and consent of the senate, appoint a
4 director of administration who shall serve at the pleasure of the governor
5 and who shall receive such salary as fixed by the governor. The director of
6 administration shall exercise all the powers and duties necessary to carry
7 out the proper administration of the department of administration. The de-
8 partment of administration shall, for the purposes of section 20, article
9 IV, of the constitution of the state of Idaho, be an executive department of
10 the state government.

11 (2) In addition to duties provided in this chapter, the director shall
12 maintain and administer a register of hearing officers as provided in sec-
13 tion 67-5242A, Idaho Code, determine hearing officer compensation consider-
14 ing the budgetary and other characteristics of the state agencies to which
15 hearing officers are assigned, and upon the initiation of a contested case
16 by a state agency shall transmit the name and contact information of the as-
17 signed hearing officer.

18 (3) To implement the provisions of this section, the director shall
19 create a master hearing officer contract and is authorized to promulgate
20 rules to carry out the duties specified in subsections (2) and (3) of this
21 section.

22 SECTION 3. Section 1 of this act shall be in full force and effect when
23 the director of the Department of Administration certifies to the Secretary
24 of State that the department is ready to carry out the provisions of Section
25 67-5242A, Idaho Code, or July 1, 2013, whichever is earlier. Section 2 of
26 this act shall be in full force and effect on and after July 1, 2012.