LEGISLATURE OF THE STATE OF IDAHO
Sixty-seventh Legislature Second Regular Session - 2024

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 461

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT
RELATING TO THE IDAHO ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTION 67-5206, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-5240, IDAHO CODE, TO REVISE A PROVISION REGARDING CONTESTED CASES; AMENDING SECTION 67-5280, IDAHO CODE, TO REVISE A PROVISION REGARDING CONTESTED CASES, TO REVISE A PROVISION REGARDING RULES, AND TO PROVIDE THAT SERVICES OFFERED BY THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL BE AVAILABLE IN CERTAIN INSTANCES; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-5206, Idaho Code, be, and the same is hereby amended to read as follows:

67-5206. PROMULGATION OF RULES IMPLEMENTING ADMINISTRATIVE PROCEDURE ACT. (1) In accordance with the rulemaking requirements of this chapter, the attorney general shall promulgate rules implementing the provisions of sections 67-5240 through 67-5255, Idaho Code. The rules shall specify:
(a) Form and content to be employed in giving notice of a contested case;
(b) Procedures and standards required for intervention in a contested case;
(c) Procedures for prehearing conferences;
(d) Format for pleadings, briefs, and motions;
(e) The method by which service shall be made;
(f) Procedures for the issuance of subpoenas, discovery orders, and protective orders if authorized by other provisions of law;
(g) Qualifications for persons seeking to act as a representative for parties to contested cases;
(h) Procedures to facilitate informal settlement of matters; and
(i) Procedures for placing ex parte contacts on the record.
(2)(a) After July 1, 1993, the rules promulgated by the attorney general under this section shall apply to all agencies that do not affirmatively promulgate alternative procedures after the promulgation of the rules by the attorney general. The rules promulgated by the attorney general shall supersed the procedural rules of any agency in effect on June 30, 1993, unless that agency promulgates its own procedures as provided in paragraph (b) of this subsection.
(b) After July 1, 1993, an agency that promulgates its own procedures shall include in the rule adopting its own procedures a finding that states the reasons why the relevant portion of the attorney general's rules were inapplicable to the agency under the circumstances.
(3) With respect to contested cases and other proceedings conducted by the office of administrative hearings as authorized by this chapter, rules
promulgated by the attorney general or any agency pursuant to subsection (1) or (2) of this section shall remain in full force and effect, except with respect to hearing officer qualifications, until such time as the office of administrative hearings promulgates replacement rules, and thereafter such rules of the office of administrative hearings shall govern unless otherwise required by governing federal law.

SECTION 2. That Section 67-5240, Idaho Code, be, and the same is hereby amended to read as follows:

67-5240. CONTESTED CASES. A proceeding by an agency other than the public utilities commission, or the industrial commission, the Idaho personnel commission, and the Idaho transportation department's driver's license suspension contested case hearings, which may result in the issuance of an order, is a contested case and is governed by the provisions of this chapter, except as provided by other provisions of law.

SECTION 3. That Section 67-5280, Idaho Code, be, and the same is hereby amended to read as follows:

67-5280. CREATION OF OFFICE OF ADMINISTRATIVE HEARINGS -- POWERS AND DUTIES. (1) There is hereby created in the department of self-governing agencies the office of administrative hearings.

(2) For agencies not excluded in this section, the office of administrative hearings shall:

(a) Unless otherwise specified by law, conduct all contested case proceedings that arise from an appeal of an agency order, except for contested case proceedings involving:

(i) The Idaho personnel commission; and

(ii) The Idaho transportation department's driver's license suspension contested case proceedings pursuant to section 18-8002A, Idaho Code;

(b) Conduct such adjudicatory hearings, mediations, and arbitrations not required by this chapter that are requested by agencies and agreed to by the office of administrative hearings at such monetary rates as established by the office of administrative hearings; and

(c) Promulgate rules consistent with state and federal law to implement provisions relating to its duties and actions authorized by this chapter.

(3) The provisions of subsection (2)(a) of this section shall not be construed to prohibit any agency from requesting any service offered by the office of administrative hearings pursuant to subsection (2)(b) of this section.

(4) The office of administrative hearings shall not hear and shall not have authority over or oversight of any action by the department of water resources or the water resource board.

(5) The office of administrative hearings shall be subject to audit in the same manner as other agencies of the state.

SECTION 4. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such
provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.