

SENATE BILL REPORT

SB 5103

As of February 19, 2015

Title: An act relating to hearings involving the office of the insurance commissioner.

Brief Description: Requiring that hearings involving the office of the insurance commissioner be presided over by administrative law judges.

Sponsors: Senators Becker, Padden, Pearson and O'Ban.

Brief History:

Committee Activity: Law & Justice: 2/05/15.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Tim Ford (786-7423)

Background: The Insurance Commissioner must hold an administrative hearing when demanded by any person harmed by an action or decision of the Insurance Commissioner. The procedures for conducting administrative hearings of state agencies are governed by the Administrative Procedure Act (APA). Administrative review before an agency affords the parties an opportunity to create a record of relevant facts and issues in dispute. Administrative hearings are informal, and compliance with formal court rules of pleading and evidence is not required. The Insurance Commissioner may preside over the administrative hearing, or delegate the authority to an employee or other person to preside over the administrative hearing and issue a final order. The commissioner may also use the services of an administrative law judge from the Office of Administrative Hearings. The administrative law judge issues an initial order reviewable by the Insurance Commissioner prior to becoming a final order. The written final decision or order may be reviewed by a superior court.

Summary of Bill: All administrative hearings authorized under the insurance code must be presided over by an administrative law judge with the Office of Administrative Hearings. The administrative law judge must issue a final decision with findings of fact and conclusions of law which is appealable only to superior court.

Employees of the Office of the Insurance Commissioner who presided over administrative hearings are transferred to the Office of Administrative Hearings.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Appropriation: None.

Fiscal Note: Requested on January 30, 2015.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is a positive step in renewing the public's trust in a quasi-judicial forum. The review process should be fair in appearance and fair in fact. The tribunal should be impartial, unbiased, and transparent. The law allows the Office of the Insurance Commissioner (OIC) to appoint an employee as a reviewing judge. It calls into question the fairness of the system. The public's confidence is undermined and the system should not appear like a rubber stamp of OIC's policy.

OTHER: The hearings process at OIC was created by the Legislature. It is the Legislature's purview on changing the process. There are everyday hearings involving disputes with licensed brokers or agents which we are considering sending over to the Office of Administrative Hearings (OAH). There are some very complicated hearings requiring a depth of expertise on re-domestication of insurance companies, health care reform, design and improve a network, and others. OIC is concerned that confidentiality is accommodated at the OAH.

OAH was created in 1981 to provide a fair and impartial independent hearing office. At OAH there is not only actual fairness but also the appearance of fairness for the citizens. There are over 100 administrative law judges in five offices around the state. OAH received over 69,000 appeals last fiscal year on a wide variety of cases for over 20 state agencies and local governments. Hearings are accessible and the majority of businesses and citizens appear without a lawyer. There is a quick resolution of disputes. The hearings impact the lives of citizens and OAH has a code of ethics similar to the Code of Judicial Conduct. OAH has an in-house continuing legal education training program for our administrative law judges. The bill delegates final order authority to OAH judges. An appeal from a final order is to a superior court. An appeal from an initial order is sent back to the agency before it may be appealed to superior court. OAH is neutral on the bill. Judges are assigned to hearings based on their subject matter expertise in the area of the dispute. In a variety of cases before OAH, we are accustomed to dealing with confidentiality. Administrative Law Judges employed by OAH issue final orders for 30 different types of hearings under current law; and for 19 of these, that is mandated by statute.

Persons Testifying: PRO: Senator Becker, prime sponsor; Sheri Nelson, Assn. of WA Business; Jeff Gingold, attorney; Patricia Petersen, citizen.

OTHER: Lonnie Johns-Brown, OIC; Jane Habegger, OAH.