

ADMINISTRATIVE HEARINGS

Agency Overview

Dollars in Thousands

	Current		Governor Recomm.		Biennium
	FY2004	FY2005	FY2006	FY2007	2006-07
<u>Direct Appropriations by Fund</u>					
Workers Compensation					
Current Appropriation	7,186	7,249	7,249	7,249	14,498
Recommended	7,186	7,249	7,452	7,358	14,810
Change		0	203	109	312
% Biennial Change from 2004-05					2.6%
<u>Expenditures by Fund</u>					
Direct Appropriations					
Workers Compensation	6,729	7,878	7,452	7,358	14,810
Statutory Appropriations					
Special Revenue	0	65	65	65	130
Administrative Hearings	1,391	2,348	1,759	1,748	3,507
Workers Comp Transcript	1	87	6	6	12
Total	8,121	10,378	9,282	9,177	18,459
<u>Expenditures by Category</u>					
Total Compensation	6,874	7,189	7,321	7,530	14,851
Other Operating Expenses	1,247	3,189	1,961	1,647	3,608
Total	8,121	10,378	9,282	9,177	18,459
<u>Expenditures by Program</u>					
Administrative Hearings	8,121	10,378	9,282	9,177	18,459
Total	8,121	10,378	9,282	9,177	18,459
Full-Time Equivalent (FTE)	81.9	81.9	81.9	81.9	

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Change Summary

<i>Dollars in Thousands</i>				
	FY2005	Governor's Recomm.		Biennium
		FY2006	FY2007	2006-07
<i>Fund: WORKERS COMPENSATION</i>				
FY 2005 Appropriations	7,249	7,249	7,249	14,498
Subtotal - Forecast Base	7,249	7,249	7,249	14,498
Change Items				
Information Technology Infrastructure	0	203	109	312
Total Governor's Recommendations	7,249	7,452	7,358	14,810
<i>Fund: SPECIAL REVENUE</i>				
Planned Statutory Spending	65	65	65	130
Total Governor's Recommendations	65	65	65	130
<i>Fund: ADMINISTRATIVE HEARINGS</i>				
Planned Statutory Spending	2,348	1,736	1,736	3,472
Change Items				
Information Technology Infrastructure	0	23	12	35
Total Governor's Recommendations	2,348	1,759	1,748	3,507
<i>Fund: WORKERS COMP TRANSCRIPT</i>				
Planned Statutory Spending	87	6	6	12
Total Governor's Recommendations	87	6	6	12
<u>Revenue Change Items</u>				
<i>Fund: ADMINISTRATIVE HEARINGS</i>				
Change Items				
Hourly Rate Change	0	286	286	572
Information Technology Infrastructure	0	23	12	35

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Change Item: Hourly Rate Change

Fiscal Impact (\$000s)	FY 2006	FY 2007	FY 2008	FY 2009
General Fund				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Administrative Hearings Fund				
Expenditures	0	0	0	0
Revenues	\$286	\$286	\$286	\$286
Net Fiscal Impact	\$286	\$286	\$286	\$286

Recommendation

The Governor recommends the hourly rates charged by Office of Administrative Hearing's (OAH) Administrative Law Division be increased to \$151.51 per hour for the services of administrative law judges and \$75.00 per hour for the services of staff attorneys. The increase is necessary to prevent continued operating losses by bringing the Division's revenues in line with the actual costs of service. The change will result in a 12.9% increase from FY 2004-05 for state agencies and political subdivisions that refer matters to the Administrative Law Division for hearings and rulemaking review.

Background

Prior to FY 2004, the rates that OAH charged to referring agencies were \$150.00 for the services of administrative law judges and \$75.00 for the services of staff attorneys. Those rates had been previously established to reflect the actual cost of service. The 2003 State Government Omnibus Finance Bill required OAH to cut those rates by 10% - that is, to \$135.00 for administrative law judges and \$67.50 for staff attorneys. That placed the Division in the position of providing hearing services for state and local agencies at less than their actual cost during the FY 2004-05 biennium. As a result, the Division sustained a net operating loss of \$132,437 in FY 2004. If there had been no reduction in rates, the Division would only have sustained a \$6,234 operating loss in FY 2004 - a variance of 0.5% from what it cost to operate during that year.

Since the 10% rate reduction was established by the legislature for the biennium, OAH cannot raise its rates in FY 2005 to prevent any additional operating losses. The division's FY 2005 spending plan was based on actual revenue experience, increased only by an appropriation for the new Fair Campaign Practice Act proceedings during FY 2005. With the reduced billing rates and further increases in the cost of services during FY 2005, OAH is projecting a \$259,741 net operating loss for FY 2005, which would bring the revolving fund balance down to \$365,000. That would represent only 26% of projected annual revenues for FY 2005, a level that is precariously low.

Relationship to Base Budget

This change item will essentially restore the rate structure that produces revenue for the Administrative Law Division's revolving fund to FY 2003 levels. It will result in a 3.2% increase in OAH's total base budget for FY 2006 and FY 2007.

Key Measures

The impact of this change on OAH's revolving fund can be measured quantitatively by determining whether projected revenue increases bring the fund into balance in FY 2006 and FY 2007. OAH's 2002 judicial development survey program indicated that 81.3% of respondents rated OAH judges "good" or "excellent" in issuing decisions in a timely manner. Approval of this change item should enable OAH to maintain or improve that level of service.

Alternatives Considered

After cutting several positions in prior years, the operations of the Administrative Law Division are currently being conducted by only 13.8 FTEs, consisting of 6.7 administrative law judge FTEs, 4 staff attorney FTEs, and only 2.9 support staff positions. Eliminating all of the division's support staff positions would not come close to bringing the gap. So, a \$286,000 annual reduction in expenses would involve, for example, eliminating two ALJ positions and reclassifying one staff attorney position as a half-time position. But, administrative law judges and staff attorneys are revenue generators. And reducing the number of revenue-generators would actually aggravate the division's

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Change Item: Hourly Rate Change

fiscal problems by reducing revenues and spreading unavoidable overhead expenses over a smaller base of revenue generators.

In other words, the division lacks any effective alternatives for reducing the cost of producing an hour of revenue.

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Change Item: Information Technology Infrastructure

Fiscal Impact (\$000s)	FY 2006	FY 2007	FY 2008	FY 2009
Workers Compensation Fund				
Expenditures	\$203	\$109	\$158	\$165
Revenues	0	0	0	0
Administrative Hearings Fund				
Expenditures	23	12	18	18
Revenues	23	12	18	18
Net Fiscal Impact	\$203	\$109	\$158	\$165

Recommendation

The Governor recommends expenditures of \$226,000 in FY 2006 and \$121,000 in FY 2007 to update Office of Administrative Hearings (OAH) information technology infrastructure. The increase is necessary to bring the majority of the office's technology infrastructure up to date in FY 2006 and then to maintain a program of regular, incremental technology updates in future fiscal years. The change will only have a minimal impact on the Administrative Law Division's hourly rates and result in only very marginal increases in the assessments made by the commissioner of Labor and Industry on workers' compensation insurers and self-insured employer to fund the Special Compensation Fund.

Background

OAH has actively cooperated with Office of Technology planning efforts, including participation in the Strategic Information Resource Planning process during the last six years, but funding requests have not been approved. As a consequence, vital portions of OAH's technology infrastructure are seriously outdated. Given tightened budgets over the last four years and with prospects of future tightening in FY 2006-07 and future biennia, it is unlikely that technology needs can be met by base level appropriations. As a result, without approval of a technology change item, OAH's technology infrastructure is likely to be seriously compromised within the next biennium.

The following are the major features of OAH's technology initiative: 1) replace 33% of network (e.g., LAN switches, servers, and routers) and workstations (e.g., computers) on an annual basis to maintain currency of technology; 2) upgrade network annually and work station software every three years to avoid major episodic upgrades; 3) install and maintain secure web and remote network access; 4) convert from conventional telephone service to voice over IP service; and 5) since new printer technology is incompatible with the imaging system we share with the Department of Labor and Industry (DLI), replace over the next four years the office's printers with compatible printers that still remain in stock.

Relationship to Base Budget

This change item will result in a 2.5% increase in OAH's total base for FY 2006 and a 1.3% increase in FY 2007. More specifically, it will result in a 2.8% increase in the base for FY 2006 and a 1.5% increase in FY 2007 for OAH's appropriation from the Special Compensation Fund, which funds the operations of the Workers' Compensation Division. It will result in a 1.3% increase in the base for FY 2006 and a .7% increase in FY 2007 for the revolving fund budget of the Administrative Law Division.

Key Measures

The impact of this change can be measured by maintaining network and workstation hardware and software that is no more than three years old, by significant reductions in the cost of telephone communications, and by having printers that remain compatible with the imaging and workers' compensation case management systems that OAH shares with DLI.

Alternatives Considered

Since compensation, benefits, and space comprise over 92% of OAH's budget, the alternative is to continue using network and workstation hardware until it is no longer useful and then rely on periodic reductions in our workforce to provide funding for episodic technology failures.

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Change Item: Information Technology Infrastructure

Technology Funding Detail (Dollars in Thousands)

Funding Distribution	2006-2007 Biennium		2008-2009 Biennium		2010-2011 Biennium	
	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personnel	0	0	0	0	0	0
Supplies	0	0	0	0	0	0
Hardware	\$127	\$74	\$113	\$80	\$123	\$87
Software	\$80	\$24	\$22	\$80	\$24	\$87
Facilities	0	0	0	0	0	0
Services	\$19	\$23	\$41	\$23	\$45	\$25
Training	0	0	0	0	0	0
Grants	0	0	0	0	0	0
TOTAL	\$226	\$121	\$176	\$183	\$192	\$199

Office of Technology Analysis

The Office of Technology recommends this work proceed in collaboration with the Drive to Excellence's work related to Sourcing. This work should integrate within the build-out of infrastructure that provides utility services and support to every entity within state government. This work needs to be explicitly coordinated to address the enterprise approach to managing technology and related purchases.

Agency Purpose

In 1976, the legislature created the Office of Administrative Hearings (OAH) as an independent executive branch agency responsible for providing citizens with administrative hearings whenever state or local laws give them the right to challenge state or local government action that adversely affected them. The legislature also made OAH responsible for ensuring that state agency rulemaking and rulemaking proceedings conform to requirements of the law. In 1981, OAH added a Workers' Compensation Division responsible for conducting workers' compensation benefit hearings. In 1998, the legislature added to that responsibility by giving OAH authority to provide certain alternative dispute resolution services to parties involved with workers' compensation benefits claims. Beginning in FY 2004, OAH's Administrative Law Division will begin conducting administrative hearings to adjudicate complaints alleging violations of laws regulating election campaign practices.

At A Glance

Annual Business Processes:

- ◆ Service to more than 80 state agencies and 40 local governmental units.
- ◆ 492 administrative rulemaking and contested case proceedings per year.
- ◆ 7,775 workers' compensation matters settled per year.
- ◆ 2,517 workers' compensation claim petitions and benefit requests adjudicated per year.

Core Functions

The agency's two operating divisions provide a variety of dispute resolution services to parties involved with administrative hearings and workers' compensation benefit claims, namely:

- ◆ providing persons adversely affected by state or local government actions with full and fair opportunities to be heard and to challenge those actions;
- ◆ ensuring that agency rules and rulemaking proceedings conform to the law and allowing the widest possible public participation in the formulation of agency rules;
- ◆ providing injured workers, their employers, and workers' compensation insurers with prompt and impartial resolutions of claims for workers' compensation benefits; and
- ◆ encouraging and assisting disputing parties to resolve their differences through settlement, arbitration, and mediation.

Operations

The administrative law judges assigned to the agency's Administrative Law Division serve and meet the administrative hearing needs of most state agencies and a number of local governments. Upon request, they also provide arbitration and mediation services to those customers. Administrative law judges also review all proposed agency rules and amendments for legality, necessity, and reasonableness and conduct public rule hearings when required. The compensation judges assigned to the agency's Workers' Compensation Division are responsible for conducting most pre-trial and all trial level functions associated with the disposition of claim petitions for workers' compensation benefits. Those functions include disposing of motions, conducting settlement and pre-trial conferences, conducting trials, and issuing awards and final decisions.

Key Measures

	Statutory Standard	2002	2004
⇒ Average time for Administrative Law Judges to issue final decisions/recommendations after the record closes.	90 days	19.1 days	16.0 days
⇒ Average time for compensation judges to issue final decisions after the record closes.	60 days	33.8 days	36.9 days
⇒ Average time for compensation judges to issue orders on requests for discontinuance of benefits.	5 days	2.7 days	2.8 days
⇒ Average time for compensation judges to issue orders for medical or rehabilitation requests.	30 days	9.8 days	13.2 days
⇒ Percent of attorneys and parties who rated OAH judges as "excellent" or "good" in each of 21 categories. (See OAH web site for more information on this survey.)	NA	80%	†

† Last survey conducted in FY 2002. Next survey scheduled for FY 2007.

Budget

OAH maintains a staff of 83.5 full-time equivalent positions, and its FY 2004-05 biennial budget totals \$17.8 million. The Administrative Law Division has a \$3.3 million biennial budget, which is funded by a special revenue revolving fund. Deposits into that fund are fees collected from state agencies and local governments through hourly charges for administrative law judges and staff attorneys. That division also receives a \$65,000 annual transfer from the general account of the State Elections Campaign Fund. The Workers' Compensation Division has a \$14.5 million biennial budget funded by a direct appropriation from the state's Workers' Compensation Special Compensation Fund.

Contact

Office of Administrative Hearings
100 Washington Square, Suite 1700
Minneapolis, Minnesota 55401-2138

Web site: <http://www.oah.state.mn.us>

Raymond R. Krause
Chief Administrative Law Judge
Phone: (612) 341-7600
Fax: (612) 349-2665

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Agency Revenue Summary

Dollars in Thousands

	Actual FY2004	Budgeted FY2005	Governor's Recomm.		Biennium 2006-07
			FY2006	FY2007	
<u>Non Dedicated Revenue:</u>					
Departmental Earnings:					
General	0	2	2	2	4
Total Non-Dedicated Receipts	0	2	2	2	4
<u>Dedicated Receipts:</u>					
Departmental Earnings:					
Administrative Hearings	1,273	1,736	2,045	2,034	4,079
Workers Comp Transcript	7	6	6	6	12
Total Dedicated Receipts	1,280	1,742	2,051	2,040	4,091
Agency Total Revenue	1,280	1,744	2,053	2,042	4,095