

HOUSE BILL REPORT

HB 1847

*As Reported By House Committee on:
State Government*

Title: An act relating to administrative law judges.

Brief Description: Prohibiting any person who has worked for an agency from becoming an administrative law judge for that agency for five years.

Sponsor(s): Representatives Van Luven, Grant, McLean, Sheldon, Tate, Ferguson, Bowman, Chandler and Paris.

Brief History:

Reported by House Committee on:
State Government, March 6, 1991, DPS.

**HOUSE COMMITTEE ON
STATE GOVERNMENT**

Majority Report: *That Substitute House Bill No. 1847 be substituted therefor, and the substitute bill do pass.*
Signed by 10 members: Representatives Anderson, Chair; Pruitt, Vice Chair; McLean, Ranking Minority Member; Bowman, Assistant Ranking Minority Member; Chandler; R. Fisher; Grant; Moyer; O'Brien; and Sheldon.

Staff: Kenneth Hirst (786-7105).

Background:

Conflict of Interest Act. The state's Executive Conflict of Interest Act prohibits certain activities by employees and former employees of the executive branch of state government which could be construed as creating a conflict of interest with their duties as a state employee. For example, for a period of one year after state employment, a former state employee is prohibited from accepting employment or compensation from a private business if the employee was' during the two years before the end of state employment, engaged in negotiating or administering on behalf of the state a contract with that business. This restriction applies if: the employee was in a position to make discretionary decisions affecting the outcome of that negotiation or administration; the contract, or group of contracts, had a total value of more than \$10,000; and the duties of the former employee for the business would include

fulfilling or implementing the contract or the supervision or control of actions taken to implement the contract. These restrictions do not apply with regard to employment by a business which is a state employee organization.

Administrative Law Judges. State law governing the Office of Administrative Hearings permits any party to a hearing being conducted by administrative law judge appointed by the office to file a motion of prejudice against the judge assigned to the hearing. The motion must be filed with the state's chief administrative law judge. The first such motion filed by a party must be automatically granted.

Summary of Substitute Bill: The Executive Conflict of Interest Act is amended. A person formerly employed by a state agency may not act as an administrative law judge in any hearing, rule-making, or investigatory proceeding involving an action of that agency for a period of two years following employment by the agency.

The laws governing administrative law judges are also amended. All motions of prejudice filed with the chief of the Office of Administrative Hearings against a judge assigned by the office to a hearing must be automatically granted if the judge was, within the last two years, an employee of an agency which is a party to the action being heard.

Substitute Bill Compared to Original Bill: The substitute bill reduces to two years, from five years in the original bill, the period during which the former employee is prohibited from acting as an administrative law judge, and identifies the types of proceedings for which the person may not act as such a judge.

Fiscal Note: Not requested.

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

Testimony For: (1) The bill prevents the appearance of unfairness which would occur if a person acted as an administrative law judge in a controversy involving an agency which had recently employed that person. (2) The bill will ensure that the position of administrative law judge does not become a retirement benefit offered to favored agency staff.

Testimony Against: (1) The Office of Administrative Hearings has an excellent track record. Of the over 350,000 cases heard to date, complaints have been filed regarding

judges in less than 10 cases. (2) Five years is too long for the prohibited period.

Witnesses: Representative Van Luven (in favor); Clif Finch, Association of Washington Business (in favor); and David LaRose, Chief Administrative Law Judge (opposed five-year period).