

HOUSE BILL REPORT

HB 1180

As Reported By House Committee On:
Government Operations

Title: An act relating to administrative law judges.

Brief Description: Limiting administrative law judge service by former agency employees.

Sponsors: Representatives Van Luven, D. Schmidt, Hargrove, Honeyford and Thompson.

Brief History:

Committee Activity:

Government Operations: 1/24/95, 1/25/95 [DP].

HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: Do pass. Signed by 15 members: Representatives Reams, Chair; Goldsmith, Vice Chair; L. Thomas, Vice Chair; Rust, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Chopp; R. Fisher; Hargrove; Honeyford; Hymes; Mulliken; D. Schmidt; Sommers; Van Luven and Wolfe.

Staff: Steve Lundin (786-7127).

Background:

1. Restrictions on employment, beneficial interests, and actions.

State law restricts the employment, beneficial interests, and actions that a state official or employee may accept or engage in after ceasing to be a state official or employee, if the employment, interests, or actions are associated or may appear to be associated with the prior service as a state official or employee.

A complaint that a violation of this law has occurred may be filed with the executive ethics board, if the alleged violator was employed by an executive agency, or with the legislative ethics board, if the alleged violator was employed by the Legislature. The appropriate ethics board may refer the matter to the Attorney General or prosecutor for appropriate action. A person who is determined to have violated this law is subject to a civil fine of up to \$5,000 per violation, or three times the economic value

of any thing received or sought in violation of the law, plus costs. The Attorney General may bring an action in the Thurston County Superior Court to rescind or cancel the state action by the officer or employee, without liability to the state.

2. Administrative law judges.

The state office of administrative hearings is established as a separate state agency to preside over adjudicatory proceedings which are not presided over by officials of the state agency that renders the final decision. An adjudicatory proceeding is a proceeding before an agency in which an opportunity for a hearing before that agency is required.

Administrative law judges in the state office of administrative hearings do not preside over adjudicatory proceedings involving the following agencies: (a) The legislative or judicial branches of government; (b) pollution control hearings board; (c) shorelines hearings board; (d) growth management hearings boards; (e) forest practices appeals board; (f) environmental hearings office; (g) board of industrial insurance appeals; (h) Washington personnel resources board; (i) public employment relations commission, (j) personnel appeals board; and (k) board of tax appeals.

An administrative law judge in the state office of administrative hearings is required to have a "demonstrative knowledge of administrative law and procedures."

Whenever practical, the chief administrative law judge shall use personnel having expertise in the field or subject matter of the hearing and assign these persons on a long-term basis.

A motion of prejudice may be filed against an administrative law judge in the office of administrative hearings who is assigned to a hearing. An administrative law judge is subject to disqualification for "bias, prejudice, interest" and other causes. The first motion of prejudice that is filed against an administrative law judge in the office of administrative hearings is automatically granted.

Summary of Bill: A person who is formerly employed by a state agency may not act as an administrative law judge in a hearing, rule making, or investigatory proceeding involving that agency's actions for two years after leaving employment with that agency.

A motion of prejudice that is filed against an administrative law judge in the office of administrative hearings shall be granted automatically if, within the last two years, the administrative law judge against who the motion was filed was an employee of a state agency that is a party to the action.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: This is an appearance of fairness and ethics issue. We don't want an appearance of bias. This has no fiscal impact. The person can act as an administrative law judge for another agency during this two-year period.

Testimony Against: None.

Testified: Representative Van Luven, prime sponsor.