

ASSEMBLY REGULATORY OVERSIGHT AND GAMING
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1521

STATE OF NEW JERSEY

DATED: JUNE 7, 2012

The Assembly Regulatory Oversight and Gaming Committee reports favorably Assembly Bill No. 1521.

This bill makes various changes to the process used for the contested case hearings handled by the Office of Administrative Law (OAL), some of which were included in the report of the Red Tape Review Group entitled "Findings & Recommendations," issued April 19, 2010.

The bill provides that, as prescribed by the Director and Chief Administrative Law Judge of the Office of Administrative Law (OAL), an administrative law judge (ALJ) may: (1) use pre-hearing conferences, and consider motions and hear witness testimony by means of telephone or video conference calls; (2) issue oral decisions in certain appropriate contested cases if one of the parties orders a transcript of the proceedings and the State agency does not request a written decision; and (3) issue decisions in the form of a checklist in certain appropriate contested cases, after consultation with each State agency.

The bill authorizes the heads of State agencies to issue an order that, in certain appropriate cases, provides for the recommended report and decision of the ALJ to be deemed adopted, immediately upon filing with the agency, as the final decision of the agency head. The appropriate cases are to be described in a written order issued by the agency head, filed with the Director and Chief ALJ, and made available to the public as a government record. The head of the agency may revise or revoke an order whenever it is deemed appropriate. The order would apply to all appropriate contested cases filed after the order's issuance and until the order is rescinded or modified.

In addition, the bill provides that the decision of an ALJ will be the final decision in all contested cases from:

- (1) the Department of Community Affairs;
- (2) the Department of Education;
- (3) the Department of Environmental Protection;
- (4) the Department of Children and Families involving placement on a child abuse registry;

(5) the Department of Health and Senior Services involving placement on the nurse aid registry, and penalty matters;

(6) the Division of Family Development in the Department of Human Services;

(7) the Division of Civil Rights in the Department of Law and Public Safety;

(8) the New Jersey Motor Vehicle Commission;

(9) the Civil Service Commission; and

(10) the Department of Law and Public Safety pursuant to P.L.1988, c.123 (C.56:12-29 et seq.), commonly referred to as the “lemon law.”

The bill also expands the responsibilities of the Director and Chief ALJ by requiring: (1) the development and implementation of an electronic filing system for the conduct of contested cases, in a manner and within a time frame deemed practicable within available resources; (2) assignment of an ALJ or other personnel to conduct arbitration, mediation, and other forms of alternative dispute resolution with regard to any contested case or any proceeding other than that related to a contested case or administrative adjudication; and (3) the scheduling of hearings in an expeditious and efficient manner taking into account the significance of the issues, the needs of the parties, available resources, costs to the parties, and other relevant factors, and providing that the Director and Chief ALJ may, on a temporary basis when required by exigent circumstances, schedule hearings notwithstanding deadlines otherwise set forth in law.

Lastly, section 4 of the bill directs State agencies to develop and implement a process for the settlement of contested cases. Further, the bill would authorize State agencies to compromise and settle, at their discretion, any penalty as may appear appropriate and equitable under all of the circumstances, unless the compromise is specifically prohibited by State or federal law.

This bill was pre-filed for introduction in the 2012-2013 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.