

Agenda Item G, EQC Discussion: EQC Contested Case Procedures
June 22-23, 2006, EQC Meeting

ORS 183.635 Agencies required to use administrative law judges from Office of Administrative Hearings; exceptions.

(1) Except as provided in this section, all agencies must use administrative law judges assigned from the Office of Administrative Hearings established under ORS 183.605 to conduct contested case hearings, without regard to whether those hearings are subject to the procedural requirements for contested case hearings.

(2) The following agencies need not use administrative law judges assigned from the office:

(a) Attorney General.

(b) Boards of stewards appointed by the Oregon Racing Commission.

(c) Bureau of Labor and Industries and the Commissioner of the Bureau of Labor and Industries.

(d) Department of Corrections.

(e) Department of Education, State Board of Education and Superintendent of Public Instruction.

(f) Department of Higher Education and institutions of higher education listed in ORS 352.002.

(g) Department of Human Services for vocational rehabilitation services cases under 29 U.S.C. 722(c) and disability determination cases under 42 U.S.C. 405.

(h) Department of Revenue.

(i) Department of State Police.

(j) Employment Appeals Board.

(k) Employment Relations Board.

(L) Energy Facility Siting Council.

(m) Fair Dismissal Appeals Board.

(n) Governor.

(o) Land Conservation and Development Commission.

(p) Land Use Board of Appeals.

(q) Local government boundary commissions created pursuant to ORS 199.425 or 199.430.

(r) Oregon Youth Authority.

(s) Psychiatric Security Review Board.

(t) Public Utility Commission.

(u) Secretary of State.

(v) State Accident Insurance Fund Corporation.

(w) State Apprenticeship and Training Council.

(x) State Board of Parole and Post-Prison Supervision.

(y) State Land Board.

(z) State Treasurer.

(aa) Wage and Hour Commission.

(3) The Workers' Compensation Board is exempt from using administrative law judges assigned from the office for any hearing conducted by the board under ORS chapters 147, 654 and 656. Except as specifically provided in this subsection, the Department of Consumer and

Business Services must use administrative law judges assigned from the office only for contested cases arising out of the department's powers and duties under:

- (a) ORS chapter 59;
- (b) ORS 200.005 to 200.075;
- (c) ORS chapter 455;
- (d) ORS chapter 674;
- (e) ORS chapters 706 to 716;
- (f) ORS chapter 717;
- (g) ORS chapters 722, 723, 725 and 726; and
- (h) ORS chapters 731, 732, 733, 734, 735, 737, 742, 743, 744, 746, 748 and 750.

(4) Notwithstanding any other provision of law, in any proceeding in which an agency is required to use an administrative law judge assigned from the office, an officer or employee of the agency may not conduct the hearing on behalf of the agency.

(5) Notwithstanding any other provision of ORS 183.600 to 183.690, an agency is not required to use an administrative law judge assigned from the office if:

- (a) Federal law requires that a different administrative law judge or hearing officer be used;
- or
- (b) Use of an administrative law judge from the office could result in a loss of federal funds.

(6) Notwithstanding any other provision of this section, the Department of Environmental Quality must use administrative law judges assigned from the office only for contested case hearings conducted under the provisions of ORS 183.413 to 183.470. [1999 c.849 §9; 2001 c.900 §46; 2003 c.75 §8; 2005 c.22 §131; 2005 c.26 §18]