

SENATE BILL NO. 507—SENATOR CANNIZZARO

MAY 26, 2023

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to the Hearings Division of the Department of Administration. (BDR 18-496)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the Hearings Division of the Department of Administration; revising provisions governing the appointment of and duties of the Chief of the Division; revising provisions relating to the appointment of hearing officers and appeals officers of the Division; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law creates the Department of Administration, which includes the Hearings Division of the Department. (NRS 232.213) Under existing law, the Director of the Department is required to serve as the Chief of the Hearings Division, but is authorized to designate one of the appeals officers in the Division to supervise the administrative, technical and procedural activities of the Division. (NRS 232.215) **Sections 1 and 2** of this bill transfer the duties to administer the Division from the Director to a Chief who is appointed by and serves at the pleasure of the Governor. **Section 2** prescribes the qualifications of the Chief. **Section 5** of this bill requires the Chief to supervise the staff of the Division and to report annually to the Director of the Department.

Under existing law, the Director of the Department of Administration is required to appoint the hearing officers, and the Governor is required to appoint the appeals officers, of the Division. (NRS 232.215, 616C.300, 616C.340) Existing law requires the Chief of the Division to prescribe by regulation the qualifications for appointment as a hearing officer. (NRS 616C.295; NAC 616C.265, 616C.267) **Sections 1 and 8** of this bill transfer the authority to appoint hearing officers to the Governor. **Sections 7 and 8** of this bill remove the authority to prescribe the qualifications for a hearing officer by regulation, and instead prescribe statutory qualifications, which require that a hearing officer be an attorney licensed to practice law in Nevada and a member in good standing of the State Bar of Nevada. **Section 10** of this bill provides that the revised qualifications apply only to hearing officers who are appointed on or after October 1, 2023.



Under existing law, the qualification for appointment as an appeals officer is to be an attorney who has been licensed to practice law in Nevada for at least 2 years. (NRS 616C.340) **Section 9** of this bill increases the period of required experience in the practice of law to at least 5 years in Nevada or another jurisdiction at any time before appointment. **Section 10** provides that the revised qualifications apply only to appeals officers who are appointed on or after October 1, 2023.

Section 6 of this bill requires the Governor to appoint an advisory committee to make recommendations to him or her regarding the appointment and retention of hearing officers and appeals officers.

Under existing law, the Chief of the Division is required to perform various duties related to the administration of the Division, including adopting regulations relating to codes of conduct, training and continuing education for hearing officers and appeals officers and preparing an annual report related to cases heard by hearing officers and appeals officers. (NRS 616C.295) **Section 7** requires the Chief to maintain a calendar of all matters pending before hearing officers and appeals officers of the Division on the Internet website of the Division in a format that is accessible to the public. **Section 7** also: (1) increases the frequency of the preparation of the report from annually to quarterly; and (2) requires the reporting of additional data relating to each hearing officer and appeals officer.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 232.215 is hereby amended to read as follows:

232.215 The Director:

1. Shall appoint an Administrator of the:

- (a) Risk Management Division;
- (b) State Public Works Division;
- (c) Purchasing Division;
- (d) Administrative Services Division;
- (e) Division of Human Resource Management;
- (f) Division of Enterprise Information Technology Services;
- (g) Division of State Library, Archives and Public Records;
- (h) Fleet Services Division; and
- (i) Mail Services Division.

2. Shall, with the concurrence of the Governor and the Committee to Administer the Public Employees' Deferred Compensation Program, appoint the Executive Officer of the Public Employees' Deferred Compensation Program.

~~3. [Shall serve as Chief of the Hearings Division and shall appoint the hearing officers and compensation officers. The Director may designate one of the appeals officers in the Division to supervise the administrative, technical and procedural activities of the Division.]~~

~~4.]~~ Is responsible for the administration, through the divisions of the Department, of the provisions of chapters 233F, 242 and 284 of NRS, NRS 287.250 to 287.370, inclusive, and chapters 331, 333,



336, 338, 341 and 378 of NRS and all other provisions of law relating to the functions of the divisions of the Department.

~~15.1~~ 4. Is responsible for the administration of the laws of this State relating to the negotiation and procurement of medical services and other benefits for state agencies.

~~16.1~~ 5. Has such other powers and duties as are provided by law.

Sec. 2. NRS 232.2165 is hereby amended to read as follows:

232.2165 1. The Administrator of:

(a) The State Public Works Division;

(b) The Purchasing Division;

(c) The Administrative Services Division;

(d) The Division of Human Resource Management;

(e) The Division of Enterprise Information Technology Services;

(f) The Division of State Library, Archives and Public Records;

(g) The Fleet Services Division; and

(h) The Mail Services Division,

↪ of the Department serves at the pleasure of the Director and is in the unclassified service of the State.

2. The Executive Officer of the Public Employees' Deferred Compensation Program appointed pursuant to NRS 232.215 is in the unclassified service of the State and serves at the pleasure of the Director, except that he or she may be removed by a majority vote of the Committee to Administer the Public Employees' Deferred Compensation Program.

3. The Chief of the Hearings Division:

(a) Must be appointed by the Governor. To be appointed as Chief, a person must:

(1) Hold at least a bachelor's degree in public administration or equivalent degree as determined by the Governor.

(2) Have at least 2 years' experience administering a public agency or equivalent experience as determined by the Governor.

(3) Have not served as a hearing officer or appeals officer for the Hearings Division within the 2 years immediately preceding appointment.

(b) Is in the unclassified service of the State and serves at the pleasure of the Governor.

Sec. 3. Chapter 616C of NRS is hereby amended by adding thereto the provisions set forth as sections 4, 5 and 6 of this act.

Sec. 4. *As used in this section and NRS 616C.295 to 616C.392, inclusive, and sections 5 and 6 of this act, unless the context otherwise requires, "Chief of the Hearings Division"*



1 *means the Chief of the Hearings Division of the Department of*
2 *Administration appointed pursuant to NRS 232.2165.*

3 **Sec. 5.** 1. *The Chief of the Hearings Division shall*
4 *supervise the hearing officers and appeals officers appointed*
5 *pursuant to NRS 616C.300 and 616C.340, respectively, and any*
6 *other employee of or person who contracts with the Hearings*
7 *Division.*

8 2. *On or before July 1 of each year, the Chief of the Hearings*
9 *Division shall submit a written report to the Director of the*
10 *Department of Administration regarding the staffing and*
11 *administration of the Hearings Division. The Chief shall post the*
12 *report on the Internet website maintained by the Hearings*
13 *Division.*

14 **Sec. 6.** 1. *The Governor shall appoint an advisory*
15 *committee to assist and advise the Governor regarding the*
16 *appointment and retention of hearing officers and appeals*
17 *officers. The advisory committee must consist of the following*
18 *members:*

19 (a) *The Chief of the Hearings Division, who shall serve as the*
20 *Chair of the advisory committee;*

21 (b) *A representative of a labor organization;*

22 (c) *A representative of an employer or insurer;*

23 (d) *An attorney who represents an employer; and*

24 (e) *An attorney who represents claimants.*

25 2. *The advisory committee:*

26 (a) *Shall meet at least once each calendar year and at such*
27 *times at which the appointment of a hearing officer or appeals*
28 *officer is under consideration to make a recommendation*
29 *regarding the appointment.*

30 (b) *May meet at other times upon the call of the Chair.*

31 3. *The members of the advisory committee serve without*
32 *compensation.*

33 4. *On or before May 1 of each year, the advisory committee*
34 *shall submit a report to the Governor regarding its*
35 *recommendations relating to the retention of hearing officers and*
36 *appeals officers.*

37 **Sec. 7.** NRS 616C.295 is hereby amended to read as follows:

38 616C.295 1. *The Chief of the Hearings Division shall adopt*
39 *regulations establishing:*

40 (a) *A code of conduct for hearing officers who conduct hearings*
41 *in contested cases for compensation under chapters 616A to 617,*
42 *inclusive, of NRS; and*

43 (b) *A code of conduct for appeals officers who conduct hearings*
44 *and appeals as required pursuant to chapters 616A to 617, inclusive,*
45 *of NRS.*



2. The codes of conduct established pursuant to subsection 1 must be designed to ensure fairness and impartiality, and to avoid the appearance of impropriety.

3. The Chief of the Hearings Division shall adopt regulations establishing:

(a) Standards for the initial training and continuing education of hearing officers who conduct hearings in contested cases for compensation under chapters 616A to 617, inclusive, of NRS; and

(b) Standards for the initial training and continuing education of appeals officers who conduct hearings and appeals as required pursuant to chapters 616A to 617, inclusive, of NRS.

4. The standards established pursuant to subsection 3 must, without limitation, include training and continuing education in:

(a) The provisions of chapters 616A to 617, inclusive, of NRS;

(b) Dispute resolution; and

(c) Mediation.

5. The Chief of the Hearings Division shall:

(a) ~~Prescribe by regulation the qualifications required before a person may, pursuant to chapters 616A to 617, inclusive, of NRS, serve as a hearing officer.~~ *Maintain a calendar of all matters pending before hearing officers and appeals officers on the Internet website maintained by the Hearings Division in a format that is accessible to the public.*

(b) Provide for the expediting of the hearing of cases that involve the termination or denial of compensation.

6. From the cases heard ~~each year~~ by hearing officers and appeals officers regarding claims for benefits by injured employees, the Chief of the Hearings Division shall prepare ~~an annual~~ *a quarterly* report which itemizes, on the basis of ~~each~~ :

(a) *Each* insurer and third-party administrator ~~for the reporting period~~, the number of cases affirmed, reversed, remanded and resolved by other disposition involving that insurer or third-party administrator, including a breakdown of that information by the type of benefits denied by the insurer or third-party administrator.

~~[7. — As used in this section, “Chief of the Hearings Division” means the Chief of the Hearings Division of the Department of Administration.]~~

(b) *Each hearing officer and appeals officer for the reporting period:*

(1) *The number of cases assigned to the hearing officer or appeals officer during the reporting period, disaggregated by whether the case involved compensability, medical care or benefits, the scope of the claim, temporary partial disability or temporary total disability, permanent partial disability*



1 *or permanent total disability, vocational rehabilitation or claims*
2 *that are deemed denied based on the lack of a response from an*
3 *insurer.*

4 *(2) The number of cases pending before the hearing officer*
5 *or appeals officer at the end of the reporting period.*

6 *(3) The number of cases assigned to the hearing officer or*
7 *appeals officer that were closed during the reporting period,*
8 *including, without limitation, the average number of days from the*
9 *filing to the closure of those cases.*

10 *(4) The disposition of cases decided by the hearing officer*
11 *or appeals officer during the reporting period, disaggregated*
12 *based on whether the case was affirmed, reversed, remanded,*
13 *settled or withdrawn, dismissed or, pursuant to subsection 7 or 8*
14 *of NRS 616C.315, submitted directly to an appeals officer.*

15 *(5) The number of appealed decisions of the hearing officer*
16 *or appeals officer on which decisions were rendered by a district*
17 *court during the reporting period, disaggregated by whether the*
18 *decision of the hearing officer or appeals officer was affirmed,*
19 *reversed, remanded or dismissed.*

20 *(6) The number of appealed decisions of the hearing officer*
21 *or appeals officer on which decisions were rendered by the Court*
22 *of Appeals or Nevada Supreme Court during the reporting period,*
23 *disaggregated by whether the decision of the hearing officer or*
24 *appeals officer was affirmed, reversed, remanded or dismissed.*

25 *(7) The number of appealed decisions of the hearing officer*
26 *or appeal officer that were settled or withdrawn during the*
27 *reporting period.*

28 *7. The Chief of the Hearings Division shall post and update*
29 *on the Internet website maintained by the Hearings Division the*
30 *data in the reports prepared pursuant to subsection 6 regarding*
31 *each hearing officer and appeals officer.*

32 **Sec. 8.** NRS 616C.300 is hereby amended to read as follows:

33 616C.300 1. The ~~{Director of the Department of~~
34 ~~Administration}~~ **Governor** shall appoint one or more hearing
35 officers to conduct hearings in contested cases for compensation
36 under chapters 616A to 617, inclusive, of NRS. Each hearing officer
37 ~~{shall serve}~~ **serves** at the pleasure of the ~~{Director of the~~
38 ~~Department of Administration.}~~ **Governor.** Each hearing officer is
39 entitled to receive an annual salary in an amount provided by law
40 and is in the unclassified service of the State.

41 2. *To be eligible for appointment as a hearing officer, a*
42 *person must be an attorney licensed to practice law in this State*
43 *and a member in good standing of the State Bar of Nevada.*
44 *Except as otherwise provided in NRS 7.065, a hearing officer shall*
45 *not engage in the private practice of law.*



3. If a hearing officer determines that he or she has a personal interest or a conflict of interest, directly or indirectly, in any case which is before him or her, the hearing officer shall disqualify himself or herself from hearing the case and the case must be assigned to another hearing officer.

Sec. 9. NRS 616C.340 is hereby amended to read as follows:

616C.340 1. The Governor shall appoint one or more appeals officers to conduct hearings and appeals as required pursuant to chapters 616A to 617, inclusive, of NRS. Each appeals officer appointed by the Governor is deemed to be a civil officer of this State for the purposes of Section 4 of Article 7 of the Nevada Constitution. Each appeals officer shall hold office for 2 years after the date of his or her appointment and until the successor of the appeals officer is appointed and has qualified. Each appeals officer is entitled to receive an annual salary in an amount provided by law and is in the unclassified service of the State.

2. ~~{Each}~~ *To be eligible for appointment as an* appeals officer, *a person* must be an attorney who ~~{has been}~~ *is* licensed to practice law ~~{before all the courts of}~~ *in* this State ~~{for at least 2 years.}~~ *and is a member in good standing of the State Bar of Nevada and who has been licensed to practice law in this State, another state or the District of Columbia for not less than 5 years at any time preceding his or her appointment.* Except as otherwise provided in NRS 7.065, an appeals officer shall not engage in the private practice of law.

3. If an appeals officer determines that he or she has a personal interest or a conflict of interest, directly or indirectly, in any case which is before him or her, the appeals officer shall disqualify himself or herself from hearing the case.

4. The Governor may appoint one or more special appeals officers to conduct hearings and appeals as required pursuant to chapters 616A to 617, inclusive, of NRS. Each special appeals officer appointed by the Governor is deemed to be a civil officer of this State for the purposes of Section 4 of Article 7 of the Nevada Constitution. The Governor shall not appoint an attorney who represents persons in actions related to claims for compensation to serve as a special appeals officer.

5. A special appeals officer appointed pursuant to subsection 4 is vested with the same powers as a regular appeals officer. A special appeals officer may hear any case in which a regular appeals officer has a conflict, or any case assigned to the special appeals officer by the ~~{senior appeals officer}~~ *Chief of the Hearings Division* to assist with a backlog of cases. A special appeals officer is entitled to be paid at an hourly rate, as determined by the Department of Administration.



6. The Governor may remove any appeals officer or special appeals officer for malfeasance or nonfeasance in the performance of his or her duties. The Governor may remove any appeals officer whose license to practice law has become void or has been revoked or suspended. The Governor shall provide the appeals officer or special appeals officer 45 days' notice of the removal unless the Governor determines that circumstances warrant immediate removal.

7. The decision of an appeals officer is the final and binding administrative decision on a claim for compensation under chapters 616A to 616D, inclusive, or chapter 617 of NRS, and the whole record consists of all evidence taken at the hearing before the appeals officer and any findings of fact and conclusions of law based thereon.

8. The provisions of this section which deem the holders of certain positions to be civil officers of this State:

(a) Are intended to supplement all other provisions of statute or case law which make the holders of certain positions be civil officers of this State; and

(b) Must not be construed to make the holder of any position not described in this section not be a civil officer of this State.

Sec. 10. 1. The qualifications for a hearing officer prescribed in NRS 616C.300, as amended by section 8 of this act, apply to persons appointed as a hearing officer on or after October 1, 2023.

2. The qualifications for an appeals officer prescribed in NRS 616C.340, as amended by section 9 of this act, apply to persons appointed as a hearing officer on or after October 1, 2023.

Sec. 11. Notwithstanding the provisions of NRS 218D.430 and 218D.435, a committee may vote on this act before the expiration of the period prescribed for the return of a fiscal note in NRS 218D.475. This section applies retroactively from and after May 26, 2023.

