

## SENATE BILL No. 197

By Committee on Financial Institutions and Insurance

1-25

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9 AN ACT concerning the office of the state bank commissioner; relating  
10 to the office of administrative hearings; exception; amending K.S.A.  
11 2006 Supp. 75-37,121 and repealing the existing section.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2006 Supp. 75-37,121 is hereby amended to read  
15 as follows: 75-37,121. (a) There is created the office of administrative  
16 hearings within the department of administration, to be headed by a di-  
17 rector appointed by the secretary of administration. The director shall be  
18 in the unclassified service under the Kansas civil service act.

19 (b) The office may employ or contract with presiding officers, court  
20 reporters and other support personnel as necessary to conduct proceed-  
21 ings required by the Kansas administrative procedure act for adjudicative  
22 proceedings of the state agencies, boards and commissions specified in  
23 subsection (h). The office shall conduct adjudicative proceedings of any  
24 state agency which is specified in subsection (h) when requested by such  
25 agency. Only a person admitted to practice law in this state or a person  
26 directly supervised by a person admitted to practice law in this state may  
27 be employed as a presiding officer. The office may employ regular part-  
28 time personnel. Persons employed by the office shall be under the clas-  
29 sified civil service.

30 (c) If the office cannot furnish one of its presiding officers in response  
31 to a requesting agency's request, the director shall designate in writing a  
32 full-time employee of an agency other than the requesting agency to serve  
33 as presiding officer for the proceeding, but only with the consent of the  
34 employing agency. The designee must possess the same qualifications  
35 required of presiding officers employed by the office.

36 (d) The director may furnish presiding officers on a contract basis to  
37 any governmental entity to conduct any proceeding other than a pro-  
38 ceeding as provided in subsection (h).

39 (e) The secretary of administration may adopt rules and regulations:

40 (1) To establish procedures for agencies to request and for the di-  
41 rector to assign presiding officers. An agency may neither select nor reject  
42 any individual presiding officer for any proceeding except in accordance  
43 with the Kansas administrative procedure act;

- 1 (2) to establish procedures and adopt forms, consistent with the Kan-  
2 sas administrative procedure act, the model rules of procedure, and other  
3 provisions of law, to govern presiding officers; and
- 4 (3) to facilitate the performance of the responsibilities conferred  
5 upon the office by the Kansas administrative procedure act.
- 6 (f) The director may implement the provisions of this section and  
7 rules and regulations adopted under its authority.
- 8 (g) The secretary of administration may adopt rules and regulations  
9 to establish fees to charge a state agency for the cost of using a presiding  
10 officer.
- 11 (h) The following state agencies, boards and commissions shall utilize  
12 the office of administrative hearings for conducting adjudicative hearings  
13 under the Kansas administrative procedures act in which the presiding  
14 officer is not the agency head or one or more members of the agency  
15 head:
- 16 (1) On and after July 1, 2005: Department of social and rehabilitation  
17 services, juvenile justice authority, department on aging, department of  
18 health and environment, Kansas public employees retirement system,  
19 Kansas water office, Kansas animal health department and Kansas insur-  
20 ance department.
- 21 (2) On and after July 1, 2006: Emergency medical services board,  
22 emergency medical services council, Kansas health policy authority and  
23 Kansas human rights commission.
- 24 (3) On and after July 1, 2007: Kansas lottery, Kansas racing and gam-  
25 ing commission, state treasurer, pooled money investment board, Kansas  
26 department of wildlife and parks and state board of tax appeals.
- 27 (4) On and after July 1, 2008: Department of human resources, state  
28 corporation commission, state conservation commission, agricultural la-  
29 bor relations board, department of administration, department of reve-  
30 nue, board of adult care home administrators, Kansas state grain inspec-  
31 tion department, board of accountancy and Kansas wheat commission.
- 32 (5) On and after July 1, 2009: Except for administrative hearings con-  
33 ducted by the state board of pharmacy, Kansas dental board, state board  
34 of veterinary examiners, behavioral sciences regulatory board, state board  
35 of cosmetology, Kansas real estate commission, real estate appraisal  
36 board, state board of mortuary arts, Kansas board of barbering, board of  
37 nursing, Kansas board of examiners in fitting and dispensing of hearing  
38 aids, board of examiners in optometry, state board of healing arts, Kansas  
39 state banking board, *office of the state bank commissioner*, state depart-  
40 ment of credit unions, office of the securities commissioner of Kansas  
41 and state board of technical professions, all other Kansas administrative  
42 procedure act hearings not mentioned in subsections (1), (2), (3) and (4).
- 43 (i) With respect to hearings before the secretary of agriculture in

1 accordance with the Kansas administrative procedures act, the secretary  
2 of agriculture or a hearing officer from the office of administrative hear-  
3 ings shall be the presiding officer unless the party requests that the mat-  
4 ter, for which a hearing has been scheduled or for which a right to a  
5 hearing exists, be heard by a hearing officer appointed by the secretary.

6 (j) (1) Effective July 1, 2005, any presiding officer in agencies spec-  
7 ified in subsection (h)(1) which conduct hearings pursuant to the Kansas  
8 administrative procedure act, except those exempted pursuant to K.S.A.  
9 77-551 and amendments thereto, and support personnel for such presid-  
10 ing officers, shall be transferred to and shall become employees of the  
11 office of administrative hearings. Such personnel shall retain all rights  
12 under the state personnel system and retirement benefits under the laws  
13 of this state which had accrued to or vested in such personnel prior to  
14 the effective date of this section. Such person's services shall be deemed  
15 to have been continuous. All transfers of personnel positions in the clas-  
16 sified service under the Kansas civil service act shall be in accordance  
17 with civil service laws and any rules and regulations adopted thereunder.  
18 This section shall not affect any matter pending before an administrative  
19 hearing officer at the time of the effective date of the transfer, and such  
20 matter shall proceed as though no transfer of employment had occurred.

21 (2) Effective July 1, 2006, any presiding officer in agencies specified  
22 in subsection (h)(2) which conduct hearings pursuant to the Kansas ad-  
23 ministrative procedure act, except those exempted pursuant to K.S.A. 77-  
24 551 and amendments thereto, and support personnel for such presiding  
25 officers, shall be transferred to and shall become employees of the office  
26 of administrative hearings. Such personnel shall retain all rights under  
27 the state personnel system and retirement benefits under the laws of this  
28 state which had accrued to or vested in such personnel prior to the ef-  
29 fective date of this section. Such person's services shall be deemed to  
30 have been continuous. All transfers of personnel positions in the classified  
31 service under the Kansas civil service act shall be in accordance with civil  
32 service laws and any rules and regulations adopted thereunder. This sec-  
33 tion shall not affect any matter pending before an administrative hearing  
34 officer at the time of the effective date of the transfer, and such matter  
35 shall proceed as though no transfer of employment had occurred.

36 (3) Effective July 1, 2007, any presiding officer in agencies specified  
37 in subsection (h)(3) which conduct hearings pursuant to the Kansas ad-  
38 ministrative procedure act, except those exempted pursuant to K.S.A. 77-  
39 551 and amendments thereto, and support personnel for such presiding  
40 officers, shall be transferred to and shall become employees of the office  
41 of administrative hearings. Such personnel shall retain all rights under  
42 the state personnel system and retirement benefits under the laws of this  
43 state which had accrued to or vested in such personnel prior to the ef-

1 fective date of this section. Such person's services shall be deemed to  
2 have been continuous. All transfers of personnel positions in the classified  
3 service under the Kansas civil service act shall be in accordance with civil  
4 service laws and any rules and regulations adopted thereunder. This sec-  
5 tion shall not affect any matter pending before an administrative hearing  
6 officer at the time of the effective date of the transfer, and such matter  
7 shall proceed as though no transfer of employment had occurred.

8 (4) Effective July 1, 2008, any full-time presiding officer in agencies  
9 specified in subsection (h)(4) which conduct hearings pursuant to the  
10 Kansas administrative procedure act, except those exempted pursuant to  
11 K.S.A. 77-551 and amendments thereto, and support personnel for such  
12 presiding officers, shall be transferred to and shall become employees of  
13 the office of administrative hearings. Such personnel shall retain all rights  
14 under the state personnel system and retirement benefits under the laws  
15 of this state which had accrued to or vested in such personnel prior to  
16 the effective date of this section. Such person's services shall be deemed  
17 to have been continuous. All transfers of personnel positions in the clas-  
18 sified service under the Kansas civil service act shall be in accordance  
19 with civil service laws and any rules and regulations adopted thereunder.  
20 This section shall not affect any matter pending before an administrative  
21 hearing officer at the time of the effective date of the transfer, and such  
22 matter shall proceed as though no transfer of employment had occurred.

23 Sec. 2. K.S.A. 2006 Supp. 75-37,121 is hereby repealed.

24 Sec. 3. This act shall take effect and be in force from and after its  
25 publication in the statute book.