

State of Wisconsin



1995 Senate Bill 536

Date of enactment: **May 28, 1996**
Date of publication*: **June 11, 1996**

1995 WISCONSIN ACT 370

AN ACT *to renumber* 227.43 (2) and 227.43 (2m); *to renumber and amend* 227.43 (4) and 227.43 (5); *to amend* 227.43 (title); and *to create* 20.505 (4) (kp), 46.03 (42), 49.32 (12), 227.43 (1) (bu) and (by), 227.43 (2) (c) and (d), 227.43 (3) (c) and (d) and 227.43 (4) (c) and (d) of the statutes; **relating to:** granting authority to the division of hearings and appeals in the department of administration to hold administrative hearings for the department of health and family services and the department of industry, labor and job development, granting rule-making authority and making appropriations.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

		1995-96	1996-97
20.505	Administration, department of		
(4)	ATTACHED DIVISIONS, BOARDS, COUNCILS AND COMMISSIONS		
(kp)	Hearings and appeals fees	PR-S A -0-	1,449,200

SECTION 2. 20.505 (4) (kp) of the statutes is created to read:

20.505 (4) (kp) *Hearings and appeals fees.* The amounts in the schedule for hearings and appeals services to the departments of health and family services and industry, labor and job development. All moneys received from the fees charged under s. 227.43 (3) (c) and (d) shall be credited to this appropriation account.

SECTION 3. 46.03 (42) of the statutes is created to read:

46.03 (42) ADMINISTRATIVE HEARINGS AND APPEALS. Any hearing under s. 227.42 granted by the department may be conducted before the division of hearings and appeals in the department of administration.

SECTION 4. 49.32 (12) of the statutes is created to read:

49.32 (12) ADMINISTRATIVE HEARINGS AND APPEALS. Any hearing under s. 227.42 granted by the department under this subchapter may be conducted before the division of hearings and appeals in the department of administration.

SECTION 5. 227.43 (title) of the statutes is amended to read:

227.43 (title) ~~Natural resources and transportation~~ **Division of hearings and appeals.**

SECTION 6. 227.43 (1) (bu) and (by) of the statutes are created to read:

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

227.43 (1) (bu) Assign a hearing examiner to preside over any hearing of a contested case that is required to be conducted by the department of health and family services and that is not conducted by the secretary of health and family services.

(by) Assign a hearing examiner to preside over any hearing of a contested case that is required to be conducted by the department of industry, labor and job development under subch. III of ch. 49 and that is not conducted by the secretary of industry, labor and job development.

SECTION 7. 227.43 (2) of the statutes is renumbered 227.43 (2) (a).

SECTION 8. 227.43 (2) (c) and (d) of the statutes are created to read:

227.43 (2) (c) The department of health and family services shall notify the division of hearings and appeals of every pending hearing to which the administrator of the division is required to assign a hearing examiner under sub. (1) (bu) after the department of health and family services is notified that a hearing on the matter is required.

(d) The department of industry, labor and job development shall notify the division of hearings and appeals of every pending hearing to which the administrator of the division is required to assign a hearing examiner under sub. (1) (by) after the department of industry, labor and job development is notified that a hearing on the matter is required.

SECTION 9. 227.43 (2m) of the statutes is renumbered 227.43 (2) (b).

SECTION 10. 227.43 (3) (c) and (d) of the statutes are created to read:

227.43 (3) (c) The administrator of the division of hearings and appeals may set the fees to be charged for any services rendered to the department of health and family services by a hearing examiner under this section in a manner consistent with a federally approved allocation methodology. The fees shall cover the total cost of the services.

(d) The administrator of the division of hearings and appeals may set the fees to be charged for any services rendered to the department of industry, labor and job development by a hearing examiner under this section in a manner consistent with a federally approved allocation methodology. The fees shall cover the total cost of the services.

SECTION 11. 227.43 (4) of the statutes is renumbered 227.43 (4) (a) and amended to read:

227.43 (4) (a) The department of natural resources shall pay all costs of the services of a hearing examiner assigned to the department under sub. (1) (b), according to the ~~fee schedule~~ fees set under sub. (3) (a).

SECTION 12. 227.43 (4) (c) and (d) of the statutes are created to read:

227.43 (4) (c) The department of health and family services shall pay all costs of the services of a hearing examiner, including support services, assigned under sub. (1) (bu), according to the fees set under sub. (3) (c).

(d) The department of industry, labor and job development shall pay all costs of the services of a hearing examiner, including support services, assigned under sub. (1) (by), according to the fees set under sub. (3) (d).

SECTION 13. 227.43 (5) of the statutes is renumbered 227.43 (4) (b) and amended to read:

227.43 (4) (b) The department of transportation shall pay all costs of the services of a hearing examiner assigned under sub. (1) (bg) or assigned to the department under sub. (1) (br), according to the ~~fee schedule~~ fees set under sub. (3) (b).

SECTION 14. Nonstatutory provisions.

(1) TRANSFER OF ADMINISTRATIVE HEARINGS AND APPEALS AUTHORITY FROM DEPARTMENT OF HEALTH AND FAMILY SERVICES TO DEPARTMENT OF ADMINISTRATION.

(a) *Assets and liabilities.* On the effective date of this paragraph, the assets and liabilities of the department of health and family services associated with administrative hearings shall become the assets and liabilities of the department of administration.

(b) *Transfer of positions and employes, change in funding source.*

1. The authorized FTE positions for the department of health and family services, funded from the appropriation under section 20.435 (8) (a) of the statutes and primarily related to hearings and appeals, are decreased by 5.4 GPR positions on the effective date of this subdivision, to reflect the transfer of hearings and appeals to the department of administration.

2. The authorized FTE positions for the department of health and family services, funded from the appropriation under section 20.435 (8) (n) of the statutes and primarily related to hearings and appeals, are decreased by 5.4 FED positions on the effective date of this subdivision, to reflect the transfer of hearings and appeals to the department of administration.

3. The authorized FTE positions for the department of administration, funded from the appropriation under section 20.505 (4) (kp) of the statutes, are increased by 10.8 PR positions on the effective date of this subdivision, to reflect the transfer of hearings and appeals from the department of health and family services.

4. All incumbent employes holding positions specified in subdivisions 1. and 2., as determined by the secretary of administration, are transferred on the effective date of this subdivision to the department of administration.

(c) *Employe status.* Employes transferred under paragraph (b) 4. to the department of administration shall have the same rights and status under subchapter V of chapter 111 and chapter 230 of the statutes in the

department of administration that they enjoyed in the department of health and family services. Notwithstanding section 230.28 (4) of the statutes, no employe with permanent status in class who is transferred under paragraph (b) is required to serve a probationary period.

(d) *Equipment and records.* On the effective date of this paragraph, all furniture, equipment, supplies and records of the department of health and family services associated with administrative hearings shall be transferred to the department of administration.

(e) *Contracts.* All contracts entered into by the department of health and family services associated with administrative hearings in effect on the effective date of this paragraph remain in effect and are transferred to the department of administration on the effective date of this paragraph. The department of administration shall carry out any such contractual obligations.

(f) *Rules and orders.* All rules promulgated and orders issued by the department of health and family services associated with administrative hearings in effect on the effective date of this paragraph remain in effect until their specified expiration date or until modified or rescinded by the department of administration.

(g) *Pending matters.* Any matter pending with the department of health and family services on the effective date of this paragraph associated with administrative hearings is transferred to the department of administration, and all materials submitted to or actions taken before the effective date of this paragraph with respect to the pending matter are considered as having been submitted to or taken by the department of administration.

(2) TRANSFER OF HEARINGS AND APPEALS AUTHORITY FROM DEPARTMENT OF INDUSTRY, LABOR AND JOB DEVELOPMENT TO DEPARTMENT OF ADMINISTRATION.

(a) *Assets and liabilities.* On the effective date of this paragraph, the assets and liabilities of the department of industry, labor and job development associated with administrative hearings under subchapter III of chapter 49 of the statutes shall become the assets and liabilities of the department of administration.

(b) *Transfer of positions and employes, change in funding source.*

1. The authorized FTE positions for the department of industry, labor and job development, funded from the appropriation under section 20.445 (1) (kc) of the statutes and primarily related to hearings and appeals for economic support programs, are decreased by 10.0 PR positions on the effective date of this subdivision, to reflect the transfer of hearings and appeals for economic support programs to the department of administration.

2. The authorized FTE positions for the department of administration, funded from the appropriation under section 20.505 (4) (kp) of the statutes, are increased by 10.0 PR positions on the effective date of this subdivision, to reflect the transfer of hearings and appeals for

economic support programs from the department of industry, labor and job development.

3. All incumbent employes holding positions specified in subdivision 1., as determined by the secretary of administration, are transferred on the effective date of this subdivision to the department of administration.

(c) *Employe status.* Employes transferred under paragraph (b) 3. to the department of administration shall have the same rights and status under subchapter V of chapter 111 and chapter 230 of the statutes in the department of administration that they enjoyed in the department of industry, labor and job development. Notwithstanding section 230.28 (4) of the statutes, no employe with permanent status in class who is transferred under paragraph (b) is required to serve a probationary period.

(d) *Equipment and records.* On the effective date of this paragraph, all furniture, equipment, supplies and records of the department of industry, labor and job development associated with administrative hearings under subchapter III of chapter 49 of the statutes shall be transferred to the department of administration.

(e) *Contracts.* All contracts entered into by the department of industry, labor and job development associated with administrative hearings under subchapter III of chapter 49 of the statutes in effect on the effective date of this paragraph remain in effect and are transferred to the department of administration on the effective date of this paragraph. The department of administration shall carry out any such contractual obligations.

(f) *Rules and orders.* All rules promulgated and orders issued by the department of industry, labor and job development associated with administrative hearings under subchapter III of chapter 49 of the statutes in effect on the effective date of this paragraph remain in effect until their specified expiration date or until modified or rescinded by the department of administration.

(g) *Pending matters.* Any matter pending with the department of industry, labor and job development on the effective date of this paragraph associated with administrative hearings under subchapter III of chapter 49 of the statutes is transferred to the department of administration, and all materials submitted to or actions taken before the effective date of this paragraph with respect to the pending matter are considered as having been submitted to or taken by the department of administration.

SECTION 15. Appropriation changes; health and family services.

(1) In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and family services under section 20.435 (8) (a) of the statutes, as affected by the acts of 1995, the dollar amount is decreased by \$439,600 for fiscal year 1996-97 to reflect a decrease in the administrative hearings workload

and the transfer of responsibility for administrative hearings to the department of administration.

(2) In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and family services under section 20.435 (1) (bm) of the statutes, as affected by the acts of 1995, the dollar amount is increased by \$234,300 for fiscal year 1996–97 to finance the cost of administrative hearing services provided to the department by the department of administration.

(3) In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and family services under section 20.435 (3) (a) of the statutes, as affected by the acts of 1995, the dollar amount is increased by \$35,300 for fiscal year 1996–97 to finance the cost of administrative hearing services provided to the department by the department of administration.

SECTION 16. Appropriation changes; industry, labor and job development.

(1) ADMINISTRATIVE PERSONNEL. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of industry, labor and job development under section 20.445 (1) (kc) of the statutes, as affected by the acts of 1995, the dollar amount is decreased by \$522,300 for fiscal year 1996–97 to reflect the transfer of responsibility for administrative hearings to the department of administration.

(2) ADMINISTRATIVE HEARINGS. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of industry, labor and job development under section 20.445 (3) (a) of the statutes, as affected by the acts of 1995, the dollar amount is increased by \$170,000 for fiscal year 1996–97 to finance the cost of administrative hearing services provided to the department by the department of administration.

SECTION 17. Effective date.

(1) TRANSFER OF HEARINGS AND APPEALS. This act takes effect on July 1, 1996, or on the day after publication, whichever is later.
