

Senate Amendment 5293

Amendment Text

PAG LIN

1 1 Amend [House File 667](#) as follows:
1 2 #1. Page 15, line 16, by inserting before the word
1 3 "If" the following:
1 4 "The presiding officer in evidentiary hearings
1 5 required to be conducted by an agency according to the
1 6 provisions of this chapter governing contested cases
1 7 shall, except as otherwise provided by law or pursuant
1 8 to paragraph "b", be one or more administrative law
1 9 judges assigned by the office of administrative
1 10 hearings in accordance with section 10A.801.
1 11 b. If an administrative law judge with the
1 12 requisite expertness as to the contested case is not
1 13 available and each real party in interest to the
1 14 contested case agrees to permit the appropriate agency
1 15 head to designate the presiding officer, the presiding
1 16 officer shall be determined as follows:
1 17 (1).
1 18 #2. Page 15, line 20, by striking the words "head,
1 19 one" and inserting the following: "head or one".
1 20 #3. Page 15, by striking lines 21 through 23 and
1 21 inserting the following: "of the agency head."
1 22 #4. Page 15, line 24, by striking the word "b."
1 23 and inserting the following: "(2)".
1 24 #5. Page 15, by striking lines 29 through 31 and
1 25 inserting the following: "of the agency head, or any
1 26 other qualified person".
1 27 #6. Page 28, by inserting after line 11 the
1 28 following:
1 29 "Sec. _____. Section [17A.23](#), Code 1997, is amended
1 30 by adding the following new unnumbered paragraph:
1 31 NEW UNNUMBERED PARAGRAPH. An agency shall have
1 32 only that authority or discretion delegated to or
1 33 conferred upon the agency by law and shall not expand
1 34 or enlarge its authority or discretion beyond the
1 35 powers delegated to or conferred upon the agency."
1 36 #7. Page 29, by inserting after line 15 the
1 37 following:
1 38 "Sec. _____. Section [96.6](#), subsection 3, unnumbered
1 39 paragraph 1, Code 1997, is amended to read as follows:
1 40 Unless the appeal is withdrawn, an administrative
1 41 law judge, after affording the parties reasonable
1 42 opportunity for fair hearing, shall affirm or modify
1 43 the findings of fact and decision of the
1 44 representative. The hearing shall be conducted
1 45 pursuant to the provisions of chapter 17A relating to
1 46 hearings for contested cases. Before the hearing is
1 47 scheduled, the parties shall be afforded the
1 48 opportunity to choose either a telephone hearing or an
1 49 in-person hearing. A request for an in-person hearing
1 50 shall be approved unless the in-person hearing would
2 1 be impractical because of the distance between the
2 2 parties to the hearing. A telephone or in-person
2 3 hearing shall not be scheduled before the seventh
2 4 calendar day after the parties receive notice of the
2 5 hearing. Reasonable requests for the postponement of
2 6 a hearing shall be granted. If no postponement of a
2 7 hearing is granted and a party fails to appear for a

2 8 hearing after proper service of notice, the
2 9 administrative law judge may, notwithstanding any
2 10 provision of section 17A.12, subsection 3, to the
2 11 contrary, proceed with the hearing and make a decision
2 12 in the absence of the party. The parties shall be
2 13 duly notified of the administrative law judge's
2 14 decision, together with the administrative law judge's
2 15 reasons for the decision, which is the final decision
2 16 of the department, unless within fifteen days after
2 17 the date of notification or mailing of the decision,
2 18 further appeal is initiated pursuant to this section.
2 19 If a decision is rendered against a party who failed
2 20 to appear for the hearing and the administrative law
2 21 judge is requested by that party to vacate the
2 22 decision for good cause within fifteen days after the
2 23 date of notification or mailing of the decision, the
2 24 time for initiating a further appeal pursuant to this
2 25 section is stayed pending a determination by the
2 26 administrative law judge to grant or deny the request.
2 27 If adequate reasons are provided showing good cause
2 28 for the party's failure to appear, the administrative
2 29 law judge shall vacate the decision and, after proper
2 30 service of notice, conduct another evidentiary
2 31 hearing. If adequate reasons are not provided showing
2 32 good cause for the party's failure to appear, the
2 33 administrative law judge shall not vacate the decision
2 34 and the decision shall then become the final decision
2 35 of the department, unless within fifteen days after
2 36 the date of notification or mailing of the
2 37 determination not to vacate, further appeal is
2 38 initiated pursuant to this section."

2 39 #8. By renumbering, relettering, or redesignating
2 40 and correcting internal references as necessary.

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2 44 COMMITTEE ON JUDICIARY
2 45 ANDY McKEAN, Chairperson
2 46 HF 667.506 77
2 47 ec/jw/28