

SESSION OF 2004

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 141**

As Amended by House Committee of the Whole

**Brief\***

SB 141 would extend the responsibility for conducting administrative hearings for all state agencies, except the Department of Agriculture, to the Office of Administrative Hearings (OAH), Kansas Department of Administration, over a five-year phase in schedule beginning July 1, 2005 and concluding July 1, 2009. Further, on and after July 1, 2009, the OAH will be abolished and a separate free-standing agency, the Office of Administrative Hearings, would be created.

The bill provides that in the case of each state agency covered, an administrative hearing could be conducted by the state agency head or by a presiding officer from the Office of Administrative Hearings. In the case of the Department of Agriculture, the hearing could be conducted by the Secretary of the Department, a hearing officer appointed by the Secretary, or, at the request of the person requesting the hearing, by the Office of Administrative Hearings.

As noted above, an incremental expansion of the responsibilities of the Office of Administrative Hearings would take place over a period of five years. Most years, one or two cabinet level agencies would be added to the office. In addition to the cabinet level agency, a group of small boards and commissions would be added each year. The following is the schedule of expansion contained in SB 141:

**Year One (July 1, 2005)**

Behavioral Sciences Regulatory Board  
Department of Administration  
Department of Health and Environment  
Department of Social and Rehabilitation Services

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Juvenile Justice Authority  
Kansas Animal Health Department  
Kansas Board of Pharmacy  
Kansas Dental Board  
Kansas Department on Aging  
Kansas Insurance Department  
Kansas Public Employees Retirement System  
Kansas Water Office  
State Board of Cosmetology  
State Board of Veterinary Examiners

**Year Two (July 1, 2006)**

Board of Examiners in Optometry  
Board of Nursing  
Emergency Medical Services Board  
Emergency Medical Services Council  
Kansas Board of Barbering  
Kansas Board of Examiners in Fitting & Dispensing of  
Hearing Aids  
Kansas Human Rights Commission  
Kansas Real Estate Commission  
Real Estate Appraisal Board  
State Board of Mortuary Arts

**Year Three (July 1, 2007)**

Consumer Credit Commissioner  
Kansas Department of Wildlife and Parks  
Kansas Lottery  
Kansas Racing and Gaming Commission  
Kansas State Banking Board  
Office of the Securities Commissioner of Kansas  
Pooled Money Investment Board  
State Board of Healing Arts  
State Board of Tax Appeals  
State Board of Technical Professions  
State Department of Credit Unions  
State Treasurer

**Year Four (July 1, 2008)**

Agriculture Labor Relations Board  
Board of Accountancy  
Board of Adult Care Home Administrators  
Department of Human Resources  
Department of Revenue  
Kansas State Grain Inspection Department  
Kansas Wheat Commission  
State Conservation Commission  
State Corporation Commission

**Year Five (July 1, 2009)**

All Other KAPA hearings, which includes the Secretary of State, the Insurance Department, and other miscellaneous boards.

The Senate Committee amended the bill to provide the Secretary of Agriculture shall conduct hearings for that agency, or at the request of the person requesting the hearing. The hearing shall be conducted before the Office of Administrative Hearings.

The Senate Committee of the Whole amendment was in line with the Senate Committee amendment adding an additional statute to reflect this change.

The House Committee amended the bill by reinserting the State Board of Pharmacy, Kansas Dental Board, State Board of Veterinary Examiners, Behavioral Sciences Regulatory Board, State Board of Cosmetology, and the Department of Agriculture to the list of entities to be added by July 1, 2005.

Also, the House Committee reinserted the Kansas Real Estate Commission, Real Estate Appraisal Board, State Board of Mortuary Arts, Kansas Board of Barbering, Board of Nursing, Kansas Board of Examiners in Fitting and Dispensing of Hearing Aids and Board of Examiners in Optometry to the list of entities to be added by July 1, 2006.

The House Committee of the Whole provided for the Public Water Supply System with the Secretary of Health and Environment to come under KAPA by July 1, 2007.

## Background

The bill was supported by the Administrative Procedure Advisory Committee of the Kansas Judicial Council. The current Office of Administrative Hearings was established July 1, 1998, and is charged with conducting all adjudicative hearings for the Department of Social and Rehabilitation Services. The Office conducts adjudicative hearings for other governmental entities. The Office has been retained by the Department of Administration (debt set off hearings), the Department on Aging, the Animal Health Department, the Board of Behavioral Sciences, the Department of Commerce and Housing, KPERS, the Juvenile Justice Authority, the Board of Cosmetology, the Board of Veterinary Examiners, the Civil Service Board, the Department of Agriculture, and the Dental Board, to provide presiding officers.

A spokesperson for the Kansas Department of Agriculture requested the Department be allowed to continue its current hearing procedures. A similar request was made by the Kansas Department of Revenue.

Beginning in FY 2005, it is estimated by the fiscal note that 2.0 presiding officers, 1.0 Information Technology Consultant II, and 1.0 Senior Administrative Assistant would need to be added for the OAH. The costs are outlined in the following table:

2.0 Presiding Officers	\$	98,676
Information Technology Consultant II		36,816
Secretary II		20,509
Benefits		45,719
Equipment for the Positions		16,400
Information System		<u>18,500</u>

TOTAL \$ 236,620

These costs are based on estimated needs for FY 2005 only. Other positions and the attendant costs would need to be added at each stage of the phase-in. The OAH would be authorized to bill agencies for the use of presiding officers. The funds to pay those costs would have to be budgeted in each agency.