

DIVISION OF ADMINISTRATIVE HEARINGS



February 1, 2004

THIRTIETH ANNUAL REPORT

Division of Administrative Hearings
Thirtieth Annual Report

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This report is submitted to the Administrative Procedures Committee and to the Administration Commission in compliance with the requirements of Section 120.65(10), Florida Statutes, which provides:

Not later than February 1 of each year, the division shall issue a written report to the Administrative Procedures Committee and the Administration Commission, including at least the following information:

(a) A summary of the extent and effect of agencies' utilization of administrative law judges, court reporters, and other personnel in proceedings under this chapter.

(b) Recommendations for change or improvement in the Administrative Procedure Act or any agency's practice or policy with respect thereto.

GENERAL

The Division of Administrative Hearings administers two programs. One, which is the subject of this report, is the Adjudication of Disputes program that operates pursuant to Chapter 120, Florida Statutes. The other is the Workers' Compensation Appeals program, Office of Judges of Compensation Claims (OJCC), that operates pursuant to Chapter 440, Florida Statutes. Section 440.45(5), Florida Statutes, requires the OJCC to issue an annual report to the Governor, the House of Representatives, the Senate, the Florida Bar, and the statewide nominating commission. This report was submitted on December 4, 2003. Accordingly, the present report will focus primarily on

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the Adjudication of Disputes program. However, because the headquarters element of the Division must support both programs, this report necessarily must include some information addressing the OJCC.

UTILIZATION RATES

Appendix I breaks out by agency the utilization rates of Division resources and demonstrates, in descending order, that 12 agencies utilized 95 percent of the Division's docket: the Agency for Health Care Administration, the Department of Management Services, the Department of Health, the Department of Financial Services, the Department of Education, the Department of Business and Professional Regulation, the Department of Children and Family Services, the Department of Environmental Protection, the Department of Community Affairs, the Department of Revenue, the Department of Transportation, and the Department of Highway Safety and Motor Vehicles. Additionally, contract agencies such as water management districts, cities, and counties have become continuing users of the Division's services and are reported separately since they are covered by contractual agreements. School districts and other educational entities are also continuing users and are reported separately as well.

The analysis of agency requests for Administrative Law Judges will be reported by fiscal year instead of calendar year,

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as has been detailed in prior annual reports. During FY 2002-03, State agencies and governmental entities referred 4,305 requests for assignment of Administrative Law Judges compared to 4,538 requests filed the previous fiscal year. Although there was a slight decrease in the number of cases filed, we are currently experiencing an upward trend: approximately 2,400 new cases have been filed during the first half of FY 2003-04. The Department of Environmental Protection's new case referrals increased 40 percent, from 88 cases filed in FY 2001-02 to 123 cases filed in FY 2002-03. Referrals from the Department of Education increased by 89 percent, from 140 cases filed in FY 2001-02 to 265 cases filed in FY 2002-03. Significant to this increase was the number of cases filed by the Education Practices Commission and the Division of Vocational Rehabilitation Services, which increased by 104 percent and 65 percent, respectively. School Board requests for hearings involving placement issues of Exceptional Education students increased as well, at 15 percent when 315 cases were filed in FY 2002-03, compared to 275 cases filed the previous year. These are expedited cases in which the Division issues final orders. Notable filings by the Department of Revenue include the administrative establishment of child support obligation cases, a successful program that was initiated as a pilot in Volusia County on July 1, 2001. This

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program was expanded statewide in 2002, pursuant to Chapter No. 2002-239, Laws of Florida. Forty-eight new cases were assigned in FY 2002-03 compared with 38 new cases filed the prior fiscal year. This caseload continues to grow, with 66 child support cases filed during the first half of FY 2003-04.

UTILIZATION OF PERSONNEL

The Adjudication of Disputes program has 78 established positions comprised of the Director and Chief Judge, the Deputy Chief Judge, 35 Administrative Law Judges, seven Administrative Secretaries, four Administrative Assistants, one Budget Officer, one Executive Assistant, three Staff Assistants, three Court Reporters (see page 6), one Administrative Services Director, one Personnel Officer, one Purchasing Agent, one Accountant, one Storekeeper, one Data Base Administrator, one Office Automation Specialist, one Distributed Computer Systems Specialist, one Secretary Specialist, one Division Clerk, two Deputy Clerk Supervisors, three Deputy Clerks, one Fiscal Assistant, one Clerk Specialist, and five Clerks.

The Workers' Compensation Appeals program has 197 established positions comprised of one Deputy Chief Judge of Compensation Claims, 31 Judges of Compensation Claims, 31 General Masters (mediators), 31 Executive Secretaries, 31 Deputy Clerks in field offices, two Deputy Clerk Supervisors, six Deputy Clerk IIs and five Deputy Clerks in the Clerk's Office,

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three Administrative Assistants, two Staff Assistants, 34 Administrative Secretaries, nine Secretary Specialists, three Senior Clerks, one Senior Management Analyst, one Operations Management Consultant, two Accountants, one Distributed Computer Systems Administrator, two Distributed Computer Systems Analysts, and one Attorney.

IN-HOUSE COURT REPORTERS

The Division employed three full-time court reporters in an In-House Court Reporting Program. This Program provided court reporters to state agencies for hearings held in Tallahassee. Appendix 2 indicates that these reporters produced a total of 22,183 pages of transcription for FY 2002-03 and generated revenue in excess of \$29,374.95.

After an in-depth review and analysis of the cost, it was determined that the cost of the program, over both the short-run and the long-run, exceeded the benefits. Accordingly, the In-House Court Reporter Program was terminated effective January 1, 2004. The three positions will be eliminated along with the corresponding expense in the Division's legislative budget request for FY 2004-05.

HEARING REQUESTS

During FY 2002-03, the Division processed 4,305 hearing requests compared to 4,538 cases filed the previous fiscal year. Of the total cases filed, 1,236 were Baker Act cases. The

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remaining 3,069 cases were filed pursuant to Sections 120.56, 120.569, and 120.57(1), Florida Statutes. The cases opened are itemized by agency in the attached Appendix 3.

Significant to the overall referral decrease were Baker Act cases, where a patient's continued involuntary confinement in a mental institution is at issue. In FY 2002-03, there were only 1,236 Baker Act cases referred compared to 1,350 cases referred the previous fiscal year, a decrease of 114 cases or eight percent. Significant decreases in other agency referrals have not been noted here but are contained in Appendix 3.

In FY 2002-03, each Administrative Law Judge conducted an average of 72 hearings and wrote an average of 65 recommended or final orders of varying length and complexity. In addition, each Judge closed an average of 131 cases.

OFFICE AUTOMATION

The Division maintains two mission-critical databases and applications: the DOAH Case Management System (CMS) and the OJCC Case Management System (JCC). Associated applications include full-text retrieval and document indexing of orders issued by the Division's Administrative Law Judges. Both databases are accessible via the Division's two websites, www.doah.state.fl.us and www.jcc.state.fl.us. Secondary applications include word processing, electronic mail and on-line legal research via Westlaw and other Internet resources.

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In 2003, the Division began accepting electronic filing of pleadings from a small test group for both the Adjudication of Disputes program and the Workers' Compensation Appeals program. The availability of electronic filing will be expanded in the immediate future.

OPERATING BUDGET

The Division is 100 percent trust funded. Appendix 4 summarizes the actual, estimated, and requested expenditures for the Division's programs for FY 2002-03, FY 2003-04, and FY 2004-05, respectively.

For the Adjudication of Disputes program, each year the Division reports to the Legislature and the Governor's Office the total number of hearing hours scheduled by all agencies. Based on this data, the Division's budget is prorated among the agencies utilizing its services, and the Legislature appropriates fund transfers to the Division from those agencies. Hence, the amount each agency transfers to the Division is based on the number of hours it schedules for pre-hearing conferences, motion hearings, final hearings, and cancelled hearings in a given year. Beginning in FY 2003-04, data on cancelled and continued hearings will be excluded from the report and the agency transfer calculations under the theory that the agencies should not be penalized for encouraging the resolution of disputes short of proceeding to hearing. In September 2003, the

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Division submitted its seventeenth report (see Appendix 1). In FY 2002-03, 34,908 hearing hours were scheduled with the Division.

The Division is also authorized to enter into contracts with cities, counties, regional planning councils, water management districts, and other organizations for the provision of Administrative Law Judge services. These organizations, as well as school districts and other educational entities, reimburse the Division for the costs of these services at the current contract rate and in accordance with applicable laws. The Division is actively seeking additional contracts with counties, municipalities, and quasi-governmental entities in order to lessen the burden of funding the Division on state agencies.

The Workers' Compensation Appeals program is supported by cash transfers from the Workers' Compensation Administration Trust Fund that is administered by the Department of Financial Services.

RECOMMENDATIONS CONCERNING THE A.P.A.

The Division closely follows judicial decisions concerning the application and interpretation of the Administrative Procedure Act. The Division clearly recognizes that it must remain fair and impartial in all matters affecting the agencies and private parties that come before it for adjudication of

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their disputes. However, pursuant to its statutory mandate in Section 120.65(10)(b), Florida Statutes, the Division is required to make recommendations for changes or improvements in the APA "or any agency's practice or policy with respect thereto." Accordingly, the Division presents the following issue concerning the late filing of requests for administrative hearings as part of this Annual Report.

Two District Courts of Appeal have specifically requested that the Legislature consider whether to make the doctrine of excusable neglect applicable to administrative proceedings once again. Prior to 1998, an untimely request for an administrative hearing was granted if the request was filed late due to excusable neglect. In 1998, Section 120.569(2)(c), Florida Statutes, was amended to provide that "A petition [request for hearing] must be dismissed if. . . it has been untimely filed."

Both before and after the 1998 statutory amendment, Florida Administrative Code Rule 28-106.111(2) and (4), has provided that a person shall file a petition for hearing within 21 days of receipt of written notice of the agency's decision and that a failure to request a hearing within 21 days constitutes a waiver of the right to a hearing.

In Cann v. Department of Children and Family Services, 813 So. 2d 237 (Fla. 2d DCA 2002), the court held that the 1998 amendment to Section 120.569(2)(c), Florida Statutes, when

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considered in conjunction with Florida Administrative Code Rule 28-106.111, overruled two prior cases which had found that the delays in timely requesting hearings in those cases were caused by excusable neglect and did not constitute waivers of the right to a hearing. The court held that the Canns were not entitled to a hearing on the Department's refusal to renew their license for a medical foster home since the Department received their request for a hearing one day past the deadline allowed under the Rule.

The Cann court, however, strongly expressed its belief that "[i]n administrative matters affecting substantial interests, adopting an excusable neglect standard or a time schedule based on the date of service of requests for hearing [rather than a filing date] would promote legitimate public policies." Id. at 239. The court further noted that in judicial proceedings a default can be set aside because of excusable neglect, a meritorious defense, and due diligence in seeking relief. The court acknowledged that such a doctrine promotes the public policy of having disputes decided on their merits rather than on procedural technicalities.

In Patz v. Department of Health, Case No. 3D03-1154, 2003 WL 23008852 (Fla. 3d DCA Dec. 24, 2003), the court, relying on the 1998 amendment to Section 120.569(2)(c), on Rule 28-106.111, and on the decision in Cann, affirmed the Board of Medicine's

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discipline of a doctor whose request for hearing was filed 43 days late. The Third District Court of Appeal, like the Second District had in Cann, called upon the Legislature to allow the doctrine of excusable neglect to be applied in administrative proceedings as it is in judicial proceedings.

By contrast, prior cases have held that the late filing of a request for an administrative hearing is not a jurisdictional defect and that the doctrine of equitable tolling can be applied to extend the administrative time limit when the petitioner has been misled or lulled into inaction, has in some extraordinary way been prevented from asserting his rights, or has timely asserted his rights mistakenly in the wrong forum. Machules v. Department of Administration, 523 So. 2d 1132 (Fla. 1988); Appel v. Florida Department of State, Division of Licensing, 734 So. 2d 1180 (Fla. 2d DCA 1999). Neither the Cann court nor the Patz court questioned the continued viability of the doctrine of equitable tolling.

Under current law, therefore, filing an untimely request for an administrative hearing is not a jurisdictional defect. One of the two prior doctrines, equitable tolling, is still available to explain and overcome a determination that a waiver of the right to a hearing has occurred; the other prior doctrine, excusable neglect, is no longer available according to the Second and Third District Courts of Appeal. See also

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Whiting v. Florida Department of Law Enforcement, 849 So. 2d 1149 (Fla. 5th DCA 2003), wherein the filing of a request for hearing one day late due to a problem with the Department's fax machine was analyzed only under the doctrine of equitable tolling and not under the doctrine of excusable neglect. Similarly, the dissent by Judge Orfinger in O'Donnell's Corporation v. Ambroise, 858 So. 2d 1138 (Fla. 5th DCA 2003), expressed at least that Judge's view that excusable neglect is no longer available in administrative proceedings.

It is recommended that the Legislature consider whether the doctrine of excusable neglect, available in judicial proceedings, be made available once again in administrative proceedings.

CONCLUSION

The Division continues to supply high-quality adjudication of disputes pursuant to Chapter 120, the Administrative Procedure Act. The Division constantly seeks ways to make the process more affordable to state agencies, and citizens and continues to expand its base to counties, cities and other users of its program in order to reduce the cost of providing services. Through the elimination of programs that prove not to be cost effective and promoting alternative dispute resolution

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short of hearing, the Division contributes to the goal of efficient government. We accomplish this without sacrificing quality and fairness in the Adjudication of Disputes program.

Respectfully submitted,

ROBERT S. COHEN
Director and Chief Judge

RSC/cdl

06/30/2003

Appendix 1

HEARING HOURS SCHEDULED REPORT
FY 2002-2003
 For the Period 07/01/02 through 06/30/03

<u>AGENCY</u>	<u>PREHEARING CONFERENCE</u>	<u>MOTION HEARING</u>	<u>CANCELLED/ CONTINUED HEARING</u>	<u>FINAL HEARING</u>	<u>TOTAL HOURS</u>	<u>% OF TOTAL HOURS</u>	<u>PRORATED AMOUNT OF ADJUSTED* FY 2004-05 LBR</u>
AIICA	7.25	43.50	6,148.00	1,551.75	7,750.50	26.15011%	\$2,019,738
AGR	0.50	1.50	361.00	107.00	470.00	1.58578%	\$122,479
DBPR	3.50	26.50	2,008.00	276.50	2,314.50	7.80910%	\$603,146
DCF	4.00	10.00	1,288.00	436.25	1,738.25	5.86484%	\$452,979
CIT	0.00	0.25	40.00	4.50	44.75	0.15099%	\$11,662
DCA	3.00	13.75	735.00	214.50	966.25	3.26012%	\$251,800
COR	0.00	2.75	54.00	6.50	63.25	0.21340%	\$16,483
DOE	1.75	34.00	2,478.00	302.00	2,815.75	9.50031%	\$733,769
ELDER	0.00	0.00	16.00	0.00	16.00	0.05398%	\$4,170
DEP	5.50	17.00	886.00	271.00	1,179.50	3.97962%	\$307,371
ETH	0.00	20.00	144.00	63.50	227.50	0.76758%	\$59,285
FWCC	0.00	0.00	16.00	0.00	16.00	0.05398%	\$4,170
GOV	0.00	7.00	64.00	32.00	103.00	0.34752%	\$26,841
DOH	5.25	32.75	2,525.00	576.50	3,139.50	10.59264%	\$818,137
HSM	1.50	6.75	577.00	7.75	593.00	2.00078%	\$154,533
DFS	5.75	19.50	2,504.00	294.50	2,823.75	9.52730%	\$735,854
JUV	0.25	1.00	81.00	34.00	116.25	0.39223%	\$30,294
DLE	1.50	2.00	203.00	33.50	240.00	0.80976%	\$62,543
DLA	0.00	(32.00)	120.00	22.25	110.25	0.37198%	\$28,731
LOT	0.00	0.00	8.00	3.50	11.50	0.03880%	\$2,997
DMS	7.25	35.75	2,613.00	625.25	3,281.25	11.07090%	\$855,076
PSC	0.00	0.00	3.00	0.00	3.00	0.01012%	\$782
REV	0.75	6.00	722.00	67.00	795.75	2.68485%	\$207,368
DOS	0.00	0.00	48.00	8.00	56.00	0.18894%	\$14,593
DOT	1.50	9.00	711.00	41.50	763.00	2.57435%	\$198,834
VET	0.00	0.00	0.00	0.00	0.00	0.00000%	\$0
TOTAL	49.25	257.00	24,353.00	4,979.25	29,638.50	100.00000%	\$7,723,635

NOTES: Hearing hours scheduled in contract cases (water management districts, regional planning councils, cities, counties, etc.) NICA cases, school district/educational entity cases, and other miscellaneous cases are reported separately.

*Prior to prorating among state agencies, DOAII's FY 2004-05 Legislative Budget Request totaling \$8,665,186 was adjusted to reflect estimated revenue of \$506,120 from non-state entities, and payment of \$435,431 from the Workers' Compensation Appeals Program for general management and administrative services costs.

06/30/03

Appendix 1

HEARING HOURS SCHEDULED BY CONTRACT/EDUCATIONAL/OTHER AGENCIES

FY 2002-2003

For the Period 07/01/02 through 06/30/03

<u>AGENCY</u>	<u>PREHEARING CONFERENCE</u>	<u>MOTION HEARING</u>	<u>CANCELLED/ CONTINUED HEARING</u>	<u>FINAL HEARING</u>	<u>TOTAL HOURS</u>	<u>% OF HOURS ALL AGENCIES</u>
CONTRACT	3.00	22.00	822.00	300.25	1,147.25	3.28650%
EPP	0.00	0.00	0.00	11.00	11.00	0.03151%
TL	0.00	0.00	0.00	0.00	0.00	0.00000%
NICA	4.50	9.50	142.00	101.75	257.75	0.73837%
OTHER	0.00	0.00	44.00	4.50	48.50	0.13894%
SCHBDS	33.50	83.75	2,832.00	855.75	3,805.00	10.90008%
TOTAL	41.00	115.25	3,840.00	1,273.25	5,269.50	15.09539%

CONTRACT: Water Management Districts, Regional Planning Councils, Cities, Counties, etc.

EPP: Cases filed by DEP, pursuant to Chapter 403, Florida Statutes

TL: Transmission Line siting cases filed by DEP, pursuant to Chapter 403, Florida Statutes

NICA: Florida Birth-Related Neurological Injury Compensation Association

OTHER: Noncontract entities such as Pinellas County Construction Licensing Board

SCHBDS: School boards and other educational entities specified in the 2002-2003 General Appropriations Act

COST AVOIDANCE TO STATE AGENCIES
For the Period 7/01/02 through 06/30/03

	Total Pages Transcribed	Total Expedited Pages	Regular Pages	24-hour pages	72-hour pages	\$3.10/PG	\$7.50/PG 24 hours	\$5.00/PG 72 hours	Appearance Fee	Misc Charges	Total Cost Avoidance
AHCA	10110		10110			\$28,016.50			\$10,360.00		\$38,376.50
AGR	453		453			\$1,483.40			\$490.00		\$1,973.40
CIT	66		66			\$204.60			\$70.00		\$274.60
DBPR	682		682			\$1,854.40			\$720.00		\$2,574.40
DCF	102		0			\$0.00			\$110.00		\$110.00
DCA											
COR											
DOE	1063		1063			\$3,180.60			\$160.00		\$3,340.60
DEP	1718		1718			\$4,690.00			\$1,780.00		\$6,470.00
ETH	1560		1560			\$4,728.05			\$1,370.00		\$6,098.05
FWCC											
GOV											
DOH	1308		1206			\$2,810.40			\$1,170.00		\$3,980.40
HSM	10		0						\$70.00		\$70.00
DFS	784		736			\$2,095.45			\$810.00		\$2,905.45
JCC	262		262			\$736.55			\$420.00		\$1,156.55
JUV											
DLE											
DLA	94		94			\$291.40			\$100.00		\$391.40
LOT											
DMS	1941		359			\$1,050.90			\$2,090.00		\$3,140.90
PSC											
REV	265		142			\$420.65			\$370.00		\$790.65
DOS											
DOT											
VET											
SchBds	1765		1765			\$5,367.90			\$1,480.00		\$6,847.90
Total	22183	0		0	0		\$0.00	0	\$21,570.00	\$0.00	\$78,500.80

ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2002

Appendix 3

AGENCY	Jan-June	Jul-Dec	TOTAL
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	14	10	24
Produce disputes	1	1	2
Citrus	6	3	9
Agency Total	21	14	35
Department of Children and Family Services			
Department of Children and Family Services	50	29	79
Developmental Services	36	21	57
Exemption 435.07, position of special trust	0	11	11
Office of Licensure and Certification	34	27	61
Non-Baker Act Total	120	88	208
Contract Hearings			
Contract Hearings	2	4	6
City of Clearwater	0	1	1
City of Cape Coral	1	0	1
County of Hillsborough	1	2	3
County of Leon	1	2	3
County of Monroe	3	2	5
County of Pinellas	3	2	5
City of Tallahassee	0	4	4
Escambia County Utilities Authority	0	1	1
Pinellas County Sheriff's Civil Service Board	1	1	2
Agency Total	12	19	31
Department of Citrus			
Department of Citrus	0	3	3
Agency Total	0	3	3
Department of Corrections			
Department of Corrections	4	4	8
Agency Total	4	4	8
County School Boards			
County School Boards	0	1	1
Alachua County School Board	3	4	7
Bay County School Board	3	1	4
Brevard County School Board	2	0	2
Broward County School Board	5	33	38
Charlotte County School Board	1	0	1
Citrus County School Board	1	0	1
Clay County School Board	0	1	1
Collier County School Board	1	3	4
Miami-Dade County School Board	53	35	88
Duval County School Board	4	9	13
Escambia County School Board	1	0	1
Gilchrist County School Board	1	0	1
Highlands County School Board	2	2	4
Hillsborough County School Board	3	3	6
Indian River County School Board	1	1	2
Jackson County School Board	1	1	2
Lake County School Board	1	0	1
Lee County School Board	3	4	7
Leon County School Board	4	2	6

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2002

AGENCY	Jan-June	Jul-Dec	TOTAL
Marion County School Board	3	1	4
Martin County School Board	1	1	2
Nassau County School Board	0	1	1
Okaloosa County School Board	1	0	1
Orange County School Board	7	8	15
Osceola County School Board	1	0	1
Palm Beach County School Board	19	8	27
Pasco County School Board	1	2	3
Pinellas County School Board	9	7	16
Polk County School Board	1	1	2
Putnam County School Board	1	0	1
St Johns County School Board	3	0	3
St Lucie County School Board	6	0	6
Sarasota County School Board	4	0	4
Seminole County School Board	7	8	15
Volusia County School Board	4	1	5
Walton County School Board	0	1	1
Agency Total	158	139	297
Department of Banking and Finance			
Department of Banking and Finance	19	23	42
Division of Investigations	1	2	3
Board of Funeral and Cemetery Services	1	0	1
Division of Securities and Finance	2	3	5
Agency Total	23	28	51
Department of Community Affairs			
Department of Community Affairs	27	20	47
Florida Housing Finance Corporation	1	5	6
Small Scale Comp Plan Amendment	5	3	8
Agency Total	33	28	61
Department of Elder Affairs			
Department of Elder Affairs	1	1	2
Agency Total	1	1	2
Department of Environmental Protection			
Department of Environmental Protection	37	78	115
Agency Total	37	78	115
Department of Health			
Department of Health	41	14	55
Board of Acupuncture	2	0	2
Board of Chiropractic	0	3	3
Board of Clinical Social Work, Marriage and Family	1	0	1
Board of Dentistry	2	1	3
Environmental Health	7	3	10
Board of Hearing Aid Specialists	8	0	8
Board of Medicine	50	24	74
Board of Massage	4	1	5
Midwifery Council	1	0	1
Board of Nursing Home Administrators	1	0	1
Board of Nursing	39	16	55
Board of Optometry	3	0	3
Board of Osteopathic Medicine	3	4	7

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2002

AGENCY	Jan-June	Jul-Dec	TOTAL
Board of Pharmacy	5	13	18
MQA/Board of Psychology	3	1	4
MQA/Board of Physical Therapy Practice	0	4	4
MQA/Board of Speech-Language Pathology, and Audiol	1	0	1
Vital Statistics	1	0	1
Agency Total	172	84	256
Department of Juvenile Justice			
Department of Juvenile Justice	3	16	19
Agency Total	3	16	19
Department of Legal Affairs			
Florida Elections Commission	4	8	12
Agency Total	4	8	12
Department of Law Enforcement			
Department of Law Enforcement	0	2	2
Criminal Justice Standards and Training	12	7	19
Agency Total	12	9	21
Department of Management Services			
Department of Management Services	1	1	2
Florida Commission on Human Relations	102	119	221
Convicted Vendor List	0	1	1
Division of State Group Insurance	3	7	10
Minority Business Enterprise	3	0	3
Division of Retirement	12	6	18
Agency Total	121	134	255
Department of Education			
Department of Education	2	0	2
Division of Blind Services	1	0	1
Education Practices Commission	63	73	136
Vocational Rehabilitation Services	27	38	65
Agency Total	93	111	204
Department of Lottery			
Department of Lottery	1	1	2
Agency Total	1	1	2
Department of State			
Division of Licensing	4	1	5
Agency Total	4	1	5
Department of Transportation			
Department of Transportation	24	33	57
High Speed Rail Transportation	0	2	2
Agency Total	24	35	59
Department of Business and Professional Regulation			
Department of Business and Professional Regulation	14	28	42
Board of Accountancy	3	0	3
Board of Architecture	0	1	1
Building Code Administrators and Inspectors	0	1	1

ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2002

Appendix 3

AGENCY	Jan-June	Jul-Dec	TOTAL
Construction Industry Licensing Board	25	43	68
Division of Alcoholic Beverages and Tobacco	28	59	87
Division of Real Estate	16	27	43
Florida Real Estate Commission	2	1	3
Board of Funeral Directors and Embalmers	0	17	17
Division of Hotels and Restaurants	27	24	51
Division of Land Sales, Condominiums, and Mobile H	5	1	6
Division of Pari-Mutuel Wagering	3	4	7
Board of Professional Engineers	10	8	18
Board of Veterinary Medicine	3	6	9
Agency Total	136	220	356
Ethics Commission			
Ethics Commission	6	6	12
Agency Total	6	6	12
Florida Keys Aqueduct Authority			
Florida Keys Aqueduct Authority	1	0	1
Agency Total	1	0	1
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	1	1	2
Agency Total	1	1	2
Office of the Governor			
Administration Commission	1	0	1
Florida Land and Water Adjudicatory Commission	6	2	8
Agency Total	7	2	9
Agency for Health Care Administration			
Agency for Health Care Administration	66	168	234
Office of Certificate of Need	50	42	92
Medicaid Program Integrity	239	54	293
Office of Licensure and Certification	84	20	104
Agency Total	439	284	723
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	5	5	10
Section 320.642	15	15	30
Agency Total	20	20	40
Department of Insurance			
Department of Insurance	70	62	132
Neurological Injury Compensation Association	14	21	35
Workers' Compensation	0	10	10
Agency Total	84	93	177
Department of Labor and Employment Security			
INS/WC as of 7-1-02	7	0	7
Agency Total	7	0	7
Medical Arbitration			
Medical Arbitration	8	11	19
Agency Total	8	11	19

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2002

AGENCY	Jan-June	Jul-Dec	TOTAL
Not an Agency	1	0	1
Not an Agency	1	0	1
Agency Total			
Pinellas County Construction Licensing Board	1	0	1
Pinellas County Construction Licensing Board	1	0	1
Agency Total			
Department of Revenue	65	28	93
Department of Revenue	21	23	44
Child Support Enforcement Program	86	51	137
Agency Total			
Universities, Colleges, and Schools	1	0	1
Florida A & M University	0	1	1
Santa Fe Community College	0	1	1
Valencia Community College	1	2	3
Agency Total			
Water Management Districts	8	4	12
South Florida Water Management District	5	4	9
St. Johns River Water Management District	1	0	1
Suwannee River Water Management District	14	6	20
Southwest Florida Water Management District	28	14	42
Agency Total			
NON BAKER ACT TOTAL	1,669	1,505	3,174
Baker Acts	126	91	217
Atlantic Shores Healthcare, Inc.	4	6	10
Correctional Mental Health Institute, Zephyrhills	78	91	169
Florida State Hospital	6	0	6
G. Pierce Woods Memorial Hospital	201	151	352
Northeast Florida State Hospital	3	2	5
Peace River Center	2	1	3
Personal Enrichment Mental Health Services	15	13	28
West Florida Community Care Center	0	1	1
Wuesthoff Hospital Behavioral Health Unit	435	356	791
Baker Act Total			

1/26/2004

Appendix 3

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Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2003

AGENCY	Jan-June	Jul-Dec	TOTAL
Department of Agriculture and Consumer Services			
Department of Agriculture and Consumer Services	1	1	2
Produce disputes	2	10	12
Bureau of Compliance and Monitoring	1	0	1
Office of Citrus Licensing and Bond	3	3	6
Division of Consumer Services	3	1	4
Division of Food and Safety	5	2	7
Division of Licensing	5	1	6
Agency Total	20	18	38
Agency for Workforce Innovation			
Agency for Workforce Innovation	1	0	1
Agency Total	1	0	1
Department of Children and Family Services			
Department of Children and Family Services	10	28	38
Developmental Services	5	0	5
Exemption 435.07, position of special trust	21	22	43
Office of Licensure and Certification	42	40	82
Non-Baker Act Total	78	90	168
Contract Hearings			
City of Clearwater	1	1	2
Clay County	1	0	1
City of Tallahassee	4	5	9
Hillsborough County	1	0	1
Jacksonville Environmental Protection Agency	2	0	2
Miami-Dade County	1	0	1
Monroe County	6	3	9
Pinellas County Sheriff's Civil Service Board	2	1	3
Pinellas County	2	0	2
Pinellas Planning Council	1	0	1
Tampa Bay Water, a Regional Water Supply Authority	0	1	1
Agency Total	21	11	32
Department of Citrus			
Department of Citrus	1	0	1
Agency Total	1	0	1
Department of Corrections			
Department of Corrections	1	2	3
Agency Total	1	2	3
County School Boards			
Alachua County School Board	1	1	2
Bay County School Board	0	1	1
Bradford County School Board	0	1	1
Brevard County School Board	3	2	5
Broward County School Board	38	14	52
Clay County School Board	4	2	6
Collier County School Board	0	2	2
Columbia County School Board	1	0	1
Miami-Dade County School Board	34	33	67
Duval County School Board	6	1	7

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2003

AGENCY	Jan-June	Jul-Dec	TOTAL
Escambia County School Board	0	4	4
Flagler County School Board	0	1	1
Gadsden County School Board	1	0	1
Hernando County School Board	4	1	5
Highlands County School Board	11	8	19
Hillsborough County School Board	8	5	13
Lake County School Board	0	2	2
Lee County School Board	7	1	8
Leon County School Board	2	3	5
Levy County School Board	0	1	1
Marion County School Board	0	2	2
Martin County School Board	0	2	2
Monroe County School Board	1	0	1
Nassau County School Board	1	0	1
Okaloosa County School Board	0	1	1
Orange County School Board	10	7	17
Osceola County School Board	1	1	2
Palm Beach County School Board	20	18	38
Pasco County School Board	2	0	2
Pinellas County School Board	6	2	8
Polk County School Board	1	2	3
Putnam County School Board	0	1	1
St Johns County School Board	2	0	2
St Lucie County School Board	1	1	2
Santa Rosa County School Board	0	2	2
Sarasota County School Board	5	0	5
Seminole County School Board	3	5	8
Taylor County School Board	0	1	1
Volusia County School Board	3	1	4
Agency Total	176	129	305
Division of Administrative Hearings			
Division of Administrative Hearings	0	1	1
Agency Total	0	1	1
Department of Banking and Finance			
Division of Investigations	1	0	1
Agency Total	1	0	1
Department of Community Affairs			
Department of Community Affairs	24	24	48
Florida Building Commission	2	1	3
Florida Housing Finance Corporation	1	8	9
Small Scale Comprehensive Plan Amendment	4	3	7
Agency Total	31	36	67
Department of Environmental Protection			
Department of Environmental Protection	44	123	167
Natural Gas Transmission Line	1	0	1
Agency Total	45	123	168
Department of Financial Services			
Department of Financial Services	73	85	158
Division of State Fire Marshal	0	4	4

ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2003

AGENCY	Jan-June	Jul-Dec	TOTAL
Financial Services Commission	9	8	17
Neurological Injury	21	24	45
Rate, automobile, casualty disputes	5	1	6
Division of Workers' Compensation	13	20	33
Agency Total	121	142	263
Department of Health			
Department of Health	5	24	29
Board of Acupuncture	0	1	1
Board of Chiropractic	2	0	2
Board of Dentistry	5	2	7
Environmental Health	1	7	8
Board of Hearing Aid Specialists	6	3	9
Board of Medicine	29	17	46
Board of Massage Therapy	3	3	6
Board of Nursing	13	9	22
Board of Orthotists and Prosthetists	0	1	1
Bureau of Radiation Control	0	5	5
Board of Opticianry	1	1	2
Board of Optometry	2	0	2
Board of Osteopathic Medicine	3	0	3
Board of Pharmacy	4	16	20
Board of Podiatric Medicine	0	1	1
MQA/Board of Physical Therapy Practice	0	5	5
MQA/Board of Respiratory Therapy	3	1	4
Agency Total	77	96	173
Department of Juvenile Justice			
Department of Juvenile Justice	6	7	13
Agency Total	6	7	13
Department of Legal Affairs			
Florida Elections Commission	4	6	10
Agency Total	4	6	10
Department of Law Enforcement			
Department of Law Enforcement	1	0	1
Criminal Justice Standards and Training Commission	41	32	73
Agency Total	42	32	74
Department of Military Affairs			
State Procurement Office	1	0	1
Agency Total	1	0	1
Department of Management Services			
Department of Management Services	1	4	5
Florida Commission on Human Relations	104	132	236
Division of State Group Insurance	2	6	8
Division of Retirement	13	11	24
Agency Total	120	153	273
Department of Education			
Department of Education	1	8	9
Division of Blind Services	0	2	2

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2003

AGENCY	Jan-June	Jul-Dec	TOTAL
Commission for Independent Education	5	0	5
Confidential Vocational Rehabilitation Cases	4	14	18
Education Practices Commission	100	49	149
Vocational Rehabilitation Services	44	18	62
Agency Total	154	91	245
Department of State			
Department of State	0	1	1
Agency Total	0	1	1
Department of Transportation			
Department of Transportation	12	24	36
Agency Total	12	24	36
Department of Business and Professional Regulation			
Department of Business and Professional Regulation	9	11	20
Board of Architecture	11	13	24
Building Code Administrators and Inspectors	0	1	1
Regulatory Council of Community Association Manage	0	1	1
Construction Industry Licensing Board	35	27	62
Board of Cosmetology	1	1	2
Division of Alcoholic Beverages and Tobacco	35	15	50
Division of Real Estate	42	31	73
Electrical Contractors	1	1	2
Bureau of Education and Testing	0	1	1
Board of Funeral Directors and Embalmers	11	0	11
Division of Hotels and Restaurants	8	11	19
Board of Professional Surveyors and Mappers	1	0	1
Division of Land Sales, Condominiums, and Mobile H	1	3	4
Board of Pilot Commissioners	1	0	1
Division of Pari-Mutuel Wagering	7	0	7
Board of Professional Engineers	10	7	17
Board of Talent Agencies	2	20	22
Board of Veterinary Medicine	1	0	1
Agency Total	176	143	319
Department of Veterans Affairs			
Department of Veterans Affairs	1	0	1
Agency Total	1	0	1
Ethics Commision			
Ethics Commision	4	7	11
Agency Total	4	7	11
Florida Keys Aqueduct Authority			
Florida Keys Aqueduct Authority	1	0	1
Agency Total	1	0	1
Fish and Wildlife Conservation Commission			
Fish and Wildlife Conservation Commission	1	0	1
Agency Total	1	0	1
Office of the Governor			
Florida Land and Water Adjudicatory Commission	6	8	14

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2003

AGENCY	Jan-June	Jul-Dec	TOTAL
Agency Total	6	8	14
Agency for Health Care Administration			
Agency for Health Care Administration	85	16	101
Bureau of Managed Care	4	1	5
Office of Certificate of Need	29	39	68
Medicaid Cost Reimbursement	1	0	1
Medicaid Program Integrity	74	78	152
Office of Licensure and Certification	55	104	159
Public Medical Assistance Trust Fund	51	29	80
Agency Total	299	267	566
Department of Highway Safety and Motor Vehicles			
Department of Highway Safety and Motor Vehicles	8	6	14
Section 320.642	34	30	64
Agency Total	42	38	80
Department of Insurance			
Department of Insurance	3	0	3
Agency Total	3	0	3
Medical Arbitration			
Medical Arbitration	4	12	16
Agency Total	4	12	16
Pinellas County Construction Licensing Board			
Pinellas County Construction Licensing Board	1	0	1
Agency Total	1	0	1
Peace River/Manasota Regional Water Supply Authority			
Peace River/Manasota Regional Water Supply Authority	1	0	1
Agency Total	1	0	1
Public Service Commission			
Public Service Commission	1	1	2
Agency Total	1	1	2
Department of Revenue			
Department of Revenue	48	47	95
Child Support Enforcement Program	25	66	91
Agency Total	73	113	186
Universities, Colleges, and Schools			
Florida A & M University	1	3	4
Florida International University	1	1	2
Florida State University	0	2	2
Miami-Dade Community College	2	0	2
School for the Deaf and Blind	1	0	1
Santa Fe Community College	1	0	1
University of Central Florida	1	0	1
Agency Total	7	6	13
Water Management Districts			

Division of Administrative Hearings
ANALYSIS OF AGENCY REQUEST FOR
ADMINISTRATIVE LAW JUDGES FOR CALENDAR YEAR 2003

AGENCY	Jan-June	Jul-Dec	TOTAL
South Florida Water Management District	1	8	9
St. Johns River Water Management District	8	3	11
Suwannee River Water Management District	6	0	6
Southwest Florida Water Management District	17	12	29
Agency Total	32	23	55
NON BAKER ACT TOTAL	1,564	1,580	3,144
Baker Acts			
Atlantic Shores Healthcare, Inc.	186	218	404
Bay Medical Behavior	2	0	2
Correctional Mental Health Institute, Zephyrhi	14	1	15
Florida State Hospital	208	180	388
Manatee Glens	0	2	2
Mental Health Care, Inc.	0	1	1
Northeast Florida State Hospital	440	376	816
Northside Mental Health Center	1	5	6
Peace River Center	6	4	10
Personal Enrichment Mental Health Services	0	2	2
Saint Anthony's Hospital	0	1	1
West Florida Community Care Center	23	28	51
Baker Act Total	880	818	1,698

SUMMARY
Division of Administrative Hearings
Actual, Estimated and Requested Expenditures

Adjudication of Disputes

<u>Appropriation Category</u>	<u>Actual Expenditures FY 2002-03</u>	<u>Estimated Expenditures FY 2003-04</u>	<u>Requested Expenditures FY 2004-05</u>
Salaries and Benefits	\$6,596,980	\$6,773,003	\$6,837,971
Other Personal Services	442,190	481,242	481,242
Expenses	1,192,289	1,228,698	1,228,698
Operating Capital Outlay	65,218	71,550	71,550
Special Categories			
Risk Mgmt. Ins.	9,422	13,673	13,673
HR Outsource. Restor.	3,540	0	0
TR/DMS/HR SVCS	4,138	32,052	32,052
Total Program Budget	<u>\$8,313,777</u>	<u>\$8,600,218</u>	<u>\$8,665,186</u>
Total Program Positions	80	78	78

Workers' Compensation Appeals

<u>Appropriation Category</u>	<u>Actual Expenditures FY 2002-03</u>	<u>Estimated Expenditures FY 2003-04</u>	<u>Requested Expenditures FY 2004-05</u>
Salaries and Benefits	\$11,061,002	\$11,634,271	\$11,760,017
Other Personal Services	1,297,658	999,362	999,362
Expenses	3,574,137	3,352,064	3,352,064
Operating Capital Outlay	357,921	28,796	28,796
Special Categories			
Risk Mgmt. Ins.	60,469	87,752	87,752
HR Outsource. Restor.	8,717	0	0
TR/DMS/HR SVCS	10,257	81,205	81,205
Data Processing Services	53,063	42,063	42,063
Total Program Budget	<u>\$16,423,224</u>	<u>\$16,225,513</u>	<u>\$16,351,259</u>
Total Program Positions	197	197	197

TOTAL DIVISION BUDGET	<u>\$24,737,001</u>	<u>\$24,825,731</u>	<u>\$25,016,445</u>
TOTAL DIVISION POSITIONS	277	275	275