

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1164

Short Title: Hearing Office Transfer.

(Public)

Sponsors: Representative Cromer.

Referred to: Government.

April 11, 1989

A BILL TO BE ENTITLED

AN ACT TO TRANSFER THE OFFICE OF ADMINISTRATIVE HEARINGS TO
THE DEPARTMENT OF ADMINISTRATION.

The General Assembly of North Carolina enacts:

Section 1. Article 60 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-750.1. Type II transfer to Department of Administration.

The Office of Administrative Hearings is transferred to the Department of Administration. The transfer has the elements of a Type II transfer as defined in G.S. 143A-6."

Sec. 2. Subsections (a) and (b) of Section 68 of Chapter 830, Session Laws of 1987, as reenacted and amended by Section 13 of Chapter 1111, Session Laws of 1987 are repealed.

Sec. 3. Article 60 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-750.2. Application of State Personnel Act.

(a) An administrative law judge may be removed from office only by the Director of the Office of Administrative Hearings and only for just cause, as provided in G.S. 7A-754. Otherwise, administrative law judges and employees of the Office of Administrative Hearings shall be entitled to all of the benefits and subject to all of the restrictions of Chapter 126 of the General Statutes in the same manner as all other State employees subject to that Chapter.

(b) Any person who was appointed as a hearing officer in the Office of Administrative Hearings prior to July 1, 1987, shall be entitled to all of the benefits

1 accruing to State employees subject to the Personnel Act under any statute or rule and
2 such entitlement shall be retroactive to the date of appointment, except that this
3 paragraph shall not be construed to apply to the Director.

4 (c) Positions classified and graded by Section 68 of Chapter 830, Session Laws
5 of 1987, as amended by Section 13 of Chapter 1111, Session Laws of 1987, shall
6 remain at the same classification and grade until altered by the State Personnel
7 Commission in accordance with law."

8 Sec. 4. G.S. 7A-752 reads as rewritten:

9 **"§ 7A-752. Chief Administrative Law Judge; appointments; vacancy.**

10 The Chief Administrative Law Judge of the Office of Administrative Hearings shall
11 be appointed by the Chief Justice for a term of office of four years. The first Chief
12 Administrative Law Judge shall be appointed as soon as practicable for a term to begin
13 on the day of his appointment and to end on June 30, 1989. Successors to the first Chief
14 Administrative Law Judge shall be appointed for a term to begin on July 1 of the year
15 the preceding term ends and to end on June 30 four years later. A Chief Administrative
16 Law Judge may continue to serve beyond his term until his successor is duly appointed
17 and sworn, but any holdover shall not affect the expiration date of the succeeding term.
18 The Chief Administrative Law Judge may be removed from office by the Governor for
19 misfeasance, malfeasance, or nonfeasance. In case of such removal or other vacancy, a
20 successor shall be appointed by the Chief Justice to serve the remainder of the
21 unexpired term.

22 The Chief Administrative Law Judge shall designate one administrative law judge as
23 senior administrative law judge. The senior administrative law judge may perform the
24 duties of Chief Administrative Law Judge if the Chief Administrative Law Judge is
25 absent or unable to serve temporarily for any reason."

26 Sec. 5. This act shall become effective July 1, 1989.