

**First Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 01-0093.02 Bart Miller

HOUSE BILL 01-1175

HOUSE SPONSORSHIP

Williams T.

SENATE SPONSORSHIP

McElhany

House Committees

Business Affairs & Labor
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONSOLIDATION OF ADMINISTRATIVE ADJUDICATION**
102 **FUNCTIONS, AND, IN CONNECTION THEREWITH, CREATING THE**
103 **DIVISION OF ADMINISTRATIVE JUSTICE IN THE DEPARTMENT OF**
104 **PERSONNEL, TRANSFERRING CERTAIN ADMINISTRATIVE LAW**
105 **JUDGES FROM OTHER STATE AGENCIES TO THE NEW DIVISION,**
106 **PROVIDING FUNDING FOR THE NEW DIVISION, ██████████ MAKING**
107 **CERTAIN TYPES OF FINAL AGENCY ACTIONS SUBJECT TO**
108 **JUDICIAL REVIEW BY THE COURT OF APPEALS, AND MAKING AN**
109 **APPROPRIATION IN CONNECTION THEREWITH.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
February 28, 2001

HOUSE
Amended 2nd Reading
February 27, 2001

adopted.)

Makes legislative findings regarding the number of Colorado citizens that depend upon administrative adjudication to resolve disputes relating to a multitude of issues. Declares that Colorado's administrative law system requires effective management, appropriate accountability, efficient funding, and consistent appeals processes. Specifies that the intent of this bill is to create a structure for the state's administrative law system that will provide effective management by preserving the independence of quasi-judicial decision-making while increasing efficiency.

Abolishes the division of administrative hearings and creates the division of administrative justice in the department of personnel. States that the head of the new division shall be the director of the division of administrative justice. With certain exceptions, transfers to the new division all of the functions of the division of administrative hearings and of all other state agencies relating to situations where an administrative law judge is required to have certain qualifications and to exercise independent legal judgment in the conduct of quasi-judicial administrative hearings and the adjudication of justiciable interests between adverse parties.

Specifically excludes from transfer to the new division certain administrative law judges within the public utilities commission, the industrial claim appeals office, and the department of corrections including the state parole board. Requires the state personnel director to conduct a periodic review of all administrative adjudicative positions in the state personnel system and to reclassify and move to the new division persons performing administrative adjudication functions that are covered by the bill but not properly classified in the state personnel system. Authorizes the governor to transfer such positions by executive order.

Makes conforming amendments to clarify that, with certain limited exceptions, all initial hearings in quasi-judicial administrative cases involving justiciable interests between adverse parties shall be made by administrative law judges of the division of administrative justice.

Sets forth the powers, duties, and functions of the director of the new division. Empowers the director to have general management control over the activities, functions, and employees of the new division, including the responsibility of hiring administrative law judges and other personnel. Sets forth the basic qualifications for administrative law judges.

Makes final actions by state agencies under the "Colorado Human Services Code", final actions relating to teacher certification and licensure, and final actions of the executive director of the department of health care policy and financing subject to review by the Colorado court of appeals.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds, determines, and declares that:

4 (a) A substantial number of Coloradans depend on administrative
5 adjudication to resolve their disputes in matters including, but not limited
6 to, occupational licensing, workers' compensation, the operation of the
7 state personnel system, and human services benefits; and

8 (b) Colorado's administrative law system requires effective
9 management, appropriate accountability, efficient funding, and consistent
10 appeals processes.

11 (2) This act is intended to create a structure for the state's
12 administrative law system that will provide effective management by:

13 (a) Preserving the independence of quasi-judicial decision-making
14 in administrative law cases while also maintaining efficiency in
15 implementing the purposes of state agencies;

16 (b) Creating a division of administrative justice in the department
17 of personnel to manage the state's administrative law system;

18 (c) Except for certain limited areas, transferring administrative law
19 judges and support personnel to the division of administrative justice; and

20 (d) Transferring budget allocations for administrative adjudication
21 services to the division of administrative justice to facilitate more efficient
22 management of resources.

23 **SECTION 2.** Part 10 of article 30 of title 24, Colorado Revised
24 Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS,
25 to read:

26 **PART 10**

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DIVISION OF
ADMINISTRATIVE JUSTICE

24-30-1001. Definitions. AS USED IN THIS ARTICLE, UNLESS THE
CONTEXT OTHERWISE REQUIRES:

(1) "ADMINISTRATIVE LAW JUDGE" MEANS AN EXECUTIVE BRANCH
OFFICIAL WHO EXERCISES INDEPENDENT LEGAL JUDGMENT IN THE CONDUCT
OF QUASI-JUDICIAL HEARINGS AND EVALUATES EVIDENCE AND WITNESSES
TO ADJUDICATE JUSTICIABLE INTERESTS BETWEEN ADVERSE PARTIES.

(2) "ADMINISTRATIVE LAW JUDGE SERVICES" OR "SERVICES OF
ADMINISTRATIVE LAW JUDGES" MEANS, FOR PURPOSES OF THIS ARTICLE,
THE ANNUAL GENERAL APPROPRIATION ACT, OR ANY SUPPLEMENTAL
APPROPRIATION ACT, ALL ACTIVITIES OF THE DIVISION AND ITS PERSONNEL,
INCLUDING BUT NOT LIMITED TO, THE CONDUCT OF ADMINISTRATIVE
HEARINGS, PREPARATION AND ISSUANCE OF DECISIONS, ACTIVITIES OF THE
DIRECTOR, ACTIVITIES OF ADMINISTRATIVE LAW JUDGES, ACTIVITIES OF
DIVISION SUPPORT PERSONNEL, AND MATERIALS, SUPPLIES, LABOR,
EQUIPMENT, SOFTWARE, SERVICES, AND OVERHEAD NECESSARY FOR THE
DIVISION TO CARRY OUT ITS DUTIES UNDER THIS ARTICLE.

(3) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

(4) "DIVISION" MEANS THE DIVISION OF ADMINISTRATIVE JUSTICE.

**24-30-1002. Division of administrative justice - creation -
transfer of functions - administrative justice revolving fund.**

(1) THERE IS HEREBY CREATED THE DIVISION OF ADMINISTRATIVE JUSTICE,
THE HEAD OF WHICH SHALL BE THE DIRECTOR OF THE DIVISION. THE
DIVISION SHALL, ON AND AFTER JULY 1, 2001, EXECUTE, ADMINISTER,
PERFORM, AND ENFORCE THE RIGHTS, POWERS, DUTIES, FUNCTIONS, AND
OBLIGATIONS VESTED IN ANY OTHER STATE AGENCY PRIOR TO JULY 1, 2001,

1 THAT ARE CONCERNED WITH THE DUTIES AND FUNCTIONS TRANSFERRED TO
2 THE DIVISION.

3 (2) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS
4 SUBSECTION (2), ON AND AFTER JULY 1, 2001, ANY PERSON EMPLOYED BY
5 ANY STATE AGENCY AND CLASSIFIED AS AN ADMINISTRATIVE LAW JUDGE
6 UNDER THE STATE PERSONNEL SYSTEM AND ANY SUPPORT POSITIONS
7 PRIMARILY ASSISTING ANY SUCH PERSON SHALL BE TRANSFERRED TO THE
8 DIVISION. SUCH PERSONNEL SHALL RETAIN ALL RIGHTS UNDER THE STATE
9 PERSONNEL SYSTEM AND RETIREMENT BENEFITS UNDER THE LAWS OF THIS
10 STATE, AND THEIR SERVICES SHALL BE DEEMED TO HAVE BEEN
11 CONTINUOUS.

12 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS
13 SUBSECTION (2), THE DIVISION SHALL NOT INCLUDE ANY ADMINISTRATIVE
14 LAW JUDGE EMPLOYED BY OR WITHIN:

15 (I) THE PUBLIC UTILITIES COMMISSION;

16 (II) THE INDUSTRIAL CLAIM APPEALS OFFICE, CREATED IN SECTION
17 8-1-102, C.R.S.; OR

18 (III) THE DEPARTMENT OF CORRECTIONS, INCLUDING THE STATE
19 PAROLE BOARD.

20 (c) ANY PERSON CLASSIFIED AS A HEARING OFFICER PURSUANT TO
21 SECTION 8-74-103, C.R.S., AS OF JULY 1, 2001, SHALL NOT BE DEEMED AN
22 ADMINISTRATIVE LAW JUDGE FOR PURPOSES OF THIS PART 10.

23 (3) ON JULY 1, 2001, ALL ITEMS OF PROPERTY, REAL AND
24 PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS,
25 DOCUMENTS, AND RECORDS OF ANY STATE AGENCY PERTAINING TO THE
26 DUTIES AND FUNCTIONS TRANSFERRED TO THE DIVISION ARE TRANSFERRED
27 TO THE SAID DIVISION AND BECOME THE PROPERTY THEREOF.

1 (4) WHENEVER ANY OTHER STATE AGENCY IS REFERRED TO OR
2 DESIGNATED BY ANY CONTRACT OR OTHER DOCUMENT IN CONNECTION
3 WITH THE DUTIES AND FUNCTIONS TRANSFERRED TO THE DIVISION, SUCH
4 REFERENCE OR DESIGNATION SHALL BE DEEMED TO APPLY TO THE DIVISION.
5 ALL CONTRACTS ENTERED INTO BY ANY SUCH AGENCIES PRIOR TO JULY 1,
6 2001, IN CONNECTION WITH THE DUTIES AND FUNCTIONS TRANSFERRED TO
7 THE DIVISION ARE HEREBY VALIDATED, WITH THE DIVISION SUCCEEDING TO
8 ALL THE RIGHTS AND OBLIGATIONS OF SUCH CONTRACTS. ANY
9 APPROPRIATIONS OF FUNDS FROM PRIOR FISCAL YEARS OPEN TO SATISFY
10 OBLIGATIONS INCURRED UNDER SUCH CONTRACTS ARE HEREBY
11 TRANSFERRED AND APPROPRIATED TO THE DIVISION FOR THE PAYMENT OF
12 SUCH OBLIGATIONS.

13 (5) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
14 ADMINISTRATIVE JUSTICE REVOLVING FUND, WHICH SHALL BE
15 ADMINISTERED BY THE DEPARTMENT OF PERSONNEL. THE FUND SHALL
16 CONSIST OF USER CHARGES PAID OUT OF ITEMS OF APPROPRIATION MADE
17 SPECIFICALLY FOR THE PURCHASE OF ADMINISTRATIVE LAW JUDGE
18 SERVICES FROM THE DIVISION. USER CHARGES SHALL BE PAID ONLY OUT
19 OF ITEMS OF APPROPRIATION MADE SPECIFICALLY FOR THE PURCHASE OF
20 SUCH SERVICES. MONEYS IN THE REVOLVING FUND SHALL BE SUBJECT TO
21 APPROPRIATION BY THE GENERAL ASSEMBLY TO COVER THE DIRECT AND
22 INDIRECT COSTS OF THE ACTIVITIES OF THE DIVISION INCLUDING, BUT NOT
23 LIMITED TO, ACTIVITIES RELATING TO ADMINISTRATIVE HEARINGS
24 CONDUCTED BY THE DIVISION. ALL INTEREST DERIVED FROM THE DEPOSIT
25 AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE
26 REVOLVING FUND. ANY MONEYS NOT APPROPRIATED SHALL REMAIN IN THE
27 REVOLVING FUND AND SHALL NOT BE TRANSFERRED TO OR REVERT TO THE

1 GENERAL FUND OF THE STATE AT THE END OF ANY FISCAL YEAR.

2 **24-30-1003. Director of division of administrative justice -**
3 **powers, duties, and functions.** (1) IN ADDITION TO ANY OTHER POWERS,
4 DUTIES, AND FUNCTIONS PROVIDED BY LAW, THE DIRECTOR SHALL:

5 (a) MANAGE THE ACTIVITIES, FUNCTIONS, AND EMPLOYEES OF THE
6 DIVISION;

7 (b) IN ACCORDANCE WITH THE LAWS AND RULES GOVERNING THE
8 STATE PERSONNEL SYSTEM, APPOINT SUCH ADMINISTRATIVE LAW JUDGES
9 AS MAY BE NECESSARY TO PROVIDE SERVICES TO EACH STATE AGENCY;

10 (c) ENFORCE THE PROVISIONS OF ANY LAW AND MAKE SUCH
11 PROCEDURAL RULES AS ARE NECESSARY FOR CARRYING OUT THE
12 FUNCTIONS OF THE DIVISION UNLESS A PROVISION OF STATE OR FEDERAL
13 LAW PROVIDES OTHERWISE. WHEN A STATUTE OR RULE OF ANY AGENCY ON
14 BEHALF OF WHICH AN ADMINISTRATIVE LAW JUDGE CONDUCTS A HEARING
15 IS IN CONFLICT WITH OR INCONSISTENT WITH A RULE OF THE DIRECTOR, THE
16 AGENCY'S STATUTE, RULE, OR BOTH SHALL TAKE PRIORITY.

17 (d) PROTECT AND ENSURE THE DECISIONAL INDEPENDENCE OF EACH
18 ADMINISTRATIVE LAW JUDGE BY ESTABLISHING AND IMPLEMENTING
19 STANDARDS OF CONDUCT, INCLUDING, BUT NOT LIMITED TO, THE
20 COLORADO CODE OF JUDICIAL CONDUCT, AND SHALL MONITOR THE
21 QUALITY OF PERFORMANCE AND, WHEN NECESSARY, CORRECT OR
22 DISCIPLINE ADMINISTRATIVE LAW JUDGES WHO DO NOT MEET SUCH
23 STANDARDS; AND

24 (e) PROVIDE AND COORDINATE TRAINING PROGRAMS FOR
25 ADMINISTRATIVE LAW JUDGES, INCLUDING RESEARCH, TECHNICAL
26 ASSISTANCE, AND TECHNICAL AND PROFESSIONAL PUBLICATIONS.

27 (2) THE DIRECTOR MAY:

1 (a) IF THE DIRECTOR MEETS THE REQUIREMENTS OF SECTION
2 24-30-1004 (1), SERVE AS AN ADMINISTRATIVE LAW JUDGE IN A CONTESTED
3 CASE;

4 (b) PROVIDE ADMINISTRATIVE LAW JUDGES ON A CONTRACTUAL
5 BASIS TO GOVERNMENTAL ENTITIES OTHER THAN THOSE REQUIRED TO USE
6 SERVICES FROM THE DIVISION;

7 (c) ACCEPT AND, SUBJECT TO ANNUAL APPROPRIATION BY THE
8 GENERAL ASSEMBLY, EXPEND FUNDS, GRANTS, BEQUESTS, AND SERVICES
9 THAT ARE RELATED TO THE PURPOSES OF THE DIVISION FROM ANY PUBLIC
10 OR PRIVATE SOURCE;

11 (d) ENTER INTO CONTRACTS AND AGREEMENTS WITH ANY PUBLIC
12 OR PRIVATE AGENCIES OR EDUCATIONAL INSTITUTIONS; AND

13 (e) CONTRACT WITH AN ADMINISTRATIVE LAW JUDGE NOT
14 EMPLOYED BY THE DIVISION TO CONDUCT HEARINGS WHEN THE
15 DEPARTMENT OF PERSONNEL OR AN EMPLOYEE OF THE DEPARTMENT OF
16 PERSONNEL IS A PARTY TO A PROCEEDING REFERRED TO THE DIVISION BY
17 THE STATE PERSONNEL BOARD PURSUANT TO SECTION 24-50-139.

18 **24-30-1004. Administrative law judges - qualifications -**
19 **conduct.** (1) AN ADMINISTRATIVE LAW JUDGE SHALL BE AN
20 ATTORNEY-AT-LAW IN GOOD STANDING AND ADMITTED TO PRACTICE LAW
21 IN THIS STATE, WITH A MINIMUM OF FIVE YEARS' EXPERIENCE PRACTICING
22 LAW.

23 (2) AN ADMINISTRATIVE LAW JUDGE SHALL NOT BE SUBJECT TO THE
24 SUPERVISION, DIRECTION, OR DIRECT INFLUENCE OF ANY OFFICER,
25 EMPLOYEE, OR AGENT ENGAGED IN THE PERFORMANCE OF INVESTIGATORY,
26 PROSECUTORY, OR ADVISORY FUNCTIONS FOR AN AGENCY FOR WHICH THE
27 ADMINISTRATIVE LAW JUDGE HEARS CASES.

1 (3) (a) A COMPLAINT ALLEGING THAT AN ADMINISTRATIVE LAW
2 JUDGE HAS VIOLATED ANY STANDARD ESTABLISHED BY THE DIRECTOR
3 UNDER SECTION 24-30-1003 (1) (d) SHALL BE REFERRED TO THE DIRECTOR,
4 WHO SHALL INVESTIGATE THE COMPLAINT AND DETERMINE WHETHER THE
5 ADMINISTRATIVE LAW JUDGE HAS VIOLATED ANY APPLICABLE PROVISION.

6 (b) IF THE ADMINISTRATIVE LAW JUDGE IS FOUND TO HAVE
7 VIOLATED ANY STANDARD ESTABLISHED BY THE DIRECTOR UNDER SECTION
8 24-30-1003 (1) (d), THEN SUCH FINDING SHALL BE MADE A PART OF THE
9 PERSONNEL FILE OF THE ADMINISTRATIVE LAW JUDGE, WHO SHALL BE
10 SUBJECT TO CORRECTIVE AND DISCIPLINARY ACTION UNDER THE STATE
11 PERSONNEL SYSTEM.

12 **24-30-1005. Administrative law judges - powers and duties.**

13 (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY
14 AND IN ADDITION TO THE PROVISIONS OF SECTION 24-4-105 (4), IN HEARING
15 ANY CASE, AN ADMINISTRATIVE LAW JUDGE HAS THE POWER TO:

- 16 (a) ISSUE SUBPOENAS;
- 17 (b) ADMINISTER OATHS;
- 18 (c) CONTROL THE COURSE OF THE PROCEEDINGS;
- 19 (d) ENGAGE IN, ENCOURAGE, OR ORDER THE USE OF ALTERNATIVE
20 DISPUTE RESOLUTION METHODOLOGIES AS APPROPRIATE;
- 21 (e) ORDER A PARTY, A PARTY'S ATTORNEY, OR OTHER AUTHORIZED
22 REPRESENTATIVE TO PAY REASONABLE EXPENSES, INCLUDING ATTORNEY
23 FEES PURSUANT TO SECTIONS 13-17-102 AND 13-17-103, C.R.S., SUBJECT
24 TO FINAL AGENCY ACTION; AND
- 25 (f) PERFORM OTHER NECESSARY AND APPROPRIATE ACTS IN THE
26 PERFORMANCE OF ADMINISTRATIVE JUDICIAL DUTIES.

27 **24-30-1006. Reclassification and transfer of positions in state**

1 **personnel system.** (1) THE STATE PERSONNEL DIRECTOR SHALL
2 PERIODICALLY REVIEW ALL ADMINISTRATIVE HEARING OFFICER AND OTHER
3 ADJUDICATIVE POSITIONS IN THE STATE PERSONNEL SYSTEM. BASED UPON
4 FUNCTIONS ACTUALLY PERFORMED, THE STATE PERSONNEL DIRECTOR
5 SHALL RECLASSIFY AS AN ADMINISTRATIVE LAW JUDGE ANY POSITION
6 PERFORMING THE FUNCTIONS DESCRIBED IN SECTION 24-30-1001 (1).

7 (2) THE GOVERNOR MAY, THROUGH EXECUTIVE ORDER, TRANSFER
8 ANY RECLASSIFIED POSITIONS, SUPPORT POSITIONS PRIMARILY ASSISTING
9 SUCH ADMINISTRATIVE LAW JUDGES, AND ASSOCIATED APPROPRIATIONS TO
10 THE DIVISION.

11 **SECTION 3.** 1-11-208 (1), Colorado Revised Statutes, is
12 amended to read:

13 **1-11-208. Contests for state senator or representative.** (1) The
14 election of any person as a state senator or a member of the state house of
15 representatives may be contested by any eligible elector of the district to
16 be represented by the senator or representative. Each house of the general
17 assembly shall hear and determine election contests of its own members.
18 In furtherance of resolving such a contest, the house of the general
19 assembly before which any contest is to be tried shall certify questions
20 pursuant to section 1-11-208.5 to the division of administrative ~~hearings~~
21 JUSTICE for referral to an administrative law judge who is subject to
22 employment under section 1-45-111.

23 **SECTION 4.** 1-11-208.5 (1), Colorado Revised Statutes, is
24 amended to read:

25 **1-11-208.5. Certification of questions to administrative law**
26 **judge.** (1) The house of the general assembly in which any contest for
27 senator or representative, as applicable, is to be tried shall certify

1 questions to the division of administrative ~~hearings~~ JUSTICE for referral to
2 an administrative law judge who is subject to employment under section
3 1-45-111. Such questions shall relate exclusively to the election returns
4 in the district and the number of votes cast for each of the candidates for
5 the contested seat. No question may be certified regarding the eligibility
6 or qualification of any person for the contested office.

7 **SECTION 5.** 5-6-104 (1) (h), Colorado Revised Statutes, is
8 amended to read:

9 **5-6-104. Powers of administrator - harmony with federal**
10 **regulations - reliance on rules.** (1) In addition to other powers granted
11 by this code, the administrator, within the limitations provided by law,
12 may:

13 (h) Employ administrative law judges from the division of
14 administrative ~~hearings~~ JUSTICE in the department of personnel to conduct
15 hearings on any matter within the administrator's jurisdiction; and

16 **SECTION 6.** 8-20.5-107 (5), Colorado Revised Statutes, is
17 amended to read:

18 **8-20.5-107. Enforcement orders - civil penalties.** (5) Within
19 twenty working days after the informal conference, the state inspector of
20 oils shall uphold, modify, or strike the allegations of the notice of
21 violation and may issue an enforcement order. The decision shall be
22 served upon the alleged violator personally or by certified mail, return
23 receipt requested. Such notice of violation or enforcement order may be
24 appealed within twenty working days to the executive director of the
25 department. The executive director of the department may either conduct
26 the hearing personally or appoint an administrative law judge from the
27 division of administrative ~~hearings~~ JUSTICE in the department of personnel

1 to conduct the hearing. The executive director of the department may
2 review such decision in accordance with the provisions of section
3 24-4-105, C.R.S., and final agency action shall be determined in
4 accordance with the provisions of said section. Such final agency action
5 shall be subject to judicial review in accordance with section 24-4-106,
6 C.R.S.

7 **SECTION 7.** 8-43-201, Colorado Revised Statutes, is amended
8 to read:

9 **8-43-201. Disputes arising under "Workers' Compensation Act**
10 **of Colorado"**. The director and administrative law judges employed by
11 the division of administrative ~~hearings~~ JUSTICE in the department of
12 personnel shall have original jurisdiction to hear and decide all matters
13 arising under articles 40 to 47 of this title; except that the following
14 principles shall apply: A claimant in a workers' compensation claim shall
15 have the burden of proving entitlement to benefits by a preponderance of
16 the evidence; the facts in a workers' compensation case shall not be
17 interpreted liberally in favor of either the rights of the injured worker or
18 the rights of the employer; and a workers' compensation case shall be
19 decided on its merits.

20 **SECTION 8.** 8-43-206 (1) and (2), Colorado Revised Statutes, are
21 amended to read:

22 **8-43-206. Settlement conference procedures.** (1) Any
23 employee, insurer, or employer, if self-insured, involved in a dispute
24 arising under articles 40 to 47 of this title may request settlement
25 conference services from the director or the division of administrative
26 ~~hearings~~ JUSTICE in the department of personnel. However, such
27 settlement procedures are optional and entirely voluntary, and no such

1 procedures shall be conducted without the consent of both parties to the
2 dispute.

3 (2) Settlement conferences shall be conducted by a settlement
4 conference officer who may be a ~~prehearing administrative law judge or~~
5 an administrative law judge in the division of administrative ~~hearings~~
6 JUSTICE in the department of personnel ~~appointed pursuant to section~~
7 ~~24-30-1003, C.R.S.~~, and assigned to hear disputes arising under articles
8 40 to 47 of this title. The parties may agree on the selection of a
9 settlement conference officer; except that such officer shall not be the
10 administrative law judge who is regularly assigned to hear the employee's
11 case. If the parties fail to agree on the selection of such officer, they may
12 apply to the director or to the division of administrative ~~hearings~~ JUSTICE
13 for the designation of a settlement conference officer who shall not be the
14 administrative law judge who is regularly assigned to hear the employee's
15 case.

16 **SECTION 9.** 8-43-207.5 (1), (2), and (3), Colorado Revised
17 Statutes, are amended to read:

18 **8-43-207.5. Prehearing conferences.** (1) Notwithstanding any
19 provision of articles 40 to 47 of this title to the contrary, at any time not
20 less than ten days prior to the formal adjudication on the record of any
21 issue before the director or an administrative law judge in the division of
22 administrative ~~hearings~~ JUSTICE, any party to a claim may request a
23 prehearing conference before a ~~prehearing~~ AN administrative law judge in
24 the division of ~~workers' compensation~~ ADMINISTRATIVE JUSTICE for the
25 speedy resolution of or simplification of any issues and to determine the
26 general readiness of remaining issues for formal adjudication on the
27 record. The issues addressed in such prehearing conference shall be

1 limited to: Ripeness of legal, but not factual, issues for formal
2 adjudication on the record before the director or an administrative law
3 judge in the division of administrative ~~hearings~~ JUSTICE; discovery
4 matters; and evidentiary disputes. The filing of an application for hearing
5 with the division of administrative ~~hearings~~ JUSTICE shall not be a
6 prerequisite to a request for a prehearing conference under this section.
7 The director and the administrative law judges in the division of
8 administrative ~~hearings~~ JUSTICE may also request a prehearing conference
9 under this section.

10 (2) ~~"Prehearing administrative law judge" means a qualified person~~
11 ~~appointed by the director pursuant to section 8-47-101 to preside over~~
12 ~~prehearing conferences pursuant to this section, to approve settlements~~
13 ~~pursuant to section 8-43-204, to conduct settlement conferences pursuant~~
14 ~~to section 8-43-206, and to conduct arbitrations pursuant to section~~
15 ~~8-43-206.5. Such prehearing administrative law judges shall have~~
16 ~~authority to: Order any party to participate in a prehearing conference;~~
17 ~~issue interlocutory orders; issue subpoenas in the name of the division for~~
18 ~~production of documentary evidence which shall be served in the same~~
19 ~~manner as subpoenas in the district court; make evidentiary rulings; permit~~
20 ~~parties to cause depositions to be taken; determine the competency of any~~
21 ~~party to a claim to enter into a settlement agreement; and strike the~~
22 ~~application for hearing of a party for failure to comply with any provision~~
23 ~~of this section.~~

24 (3) An order entered by a ~~prehearing~~ AN administrative law judge
25 AS A RESULT OF A PREHEARING CONFERENCE shall be an order of the
26 director and binding on the parties. Such an order shall be interlocutory.
27 Prehearing conferences need not be held on the record; however, any

1 party to a claim may request in advance that a record be made of the
2 prehearing conference, either taken verbatim by a court reporter provided
3 and paid for by the requesting party or electronically recorded by the
4 division.

5 **SECTION 10.** 8-43-209, Colorado Revised Statutes, is amended
6 to read:

7 **8-43-209. Time schedule for hearings - establishment.** The
8 director of the division of administrative ~~hearings~~ JUSTICE shall establish
9 a time schedule for hearings by administrative law judges within the time
10 limits for such hearings as established in this section. Hearings shall be
11 heard within eighty to one hundred days of the occurrences listed in
12 section 8-43-211 (2). One extension of time of no more than sixty days
13 may be granted by an administrative law judge upon written request by
14 any party to the case and for good cause shown, in the following cases:
15 When pulmonary lung disease, cancer, cardiovascular disease, or stroke
16 is alleged as the cause of the disability; when the subsequent injury fund
17 is a party; when permanent total disability is alleged; or when
18 compensability of the injury is contested. In all other cases, extensions of
19 time of no more than twenty days may be granted by an administrative
20 law judge upon written request by any party to the case and for good
21 cause shown. Such extensions may be granted only when the interests of
22 all parties will be served.

23 **SECTION 11.** The introductory portions to 8-43-211 (1) and (2)
24 and 8-43-211 (2) (b) and (2) (c), Colorado Revised Statutes, are amended
25 to read:

26 **8-43-211. Notice - request for hearing.** (1) At least thirty days
27 prior to any hearing, the division of administrative ~~hearings~~ JUSTICE in the

1 department of personnel shall send written notice to all parties by regular
2 mail. The notice shall:

3 (2) Hearings shall be set by the division of administrative ~~hearings~~
4 JUSTICE in the department of personnel within eighty to one hundred days
5 after any of the following occur:

6 (b) Any party requests a hearing on issues ripe for adjudication by
7 filing a written request with the division of administrative ~~hearings~~
8 JUSTICE in the department of personnel on forms provided by the division.
9 Such request shall be mailed to all parties at the time they are filed with
10 the division of administrative ~~hearings~~ JUSTICE. After the filing of such
11 requests, the division of administrative ~~hearings~~ JUSTICE in the department
12 of personnel shall set the matter for hearing insofar as is practicable in the
13 order in which requests are received by the division of administrative
14 ~~hearings~~ JUSTICE.

15 (c) Any party or the attorney of such party sends notice to set a
16 hearing on issues ripe for adjudication to opposing parties or their
17 attorneys. The director of the division of administrative ~~hearings~~ JUSTICE
18 shall determine the place and time or times during which settings can be
19 made. At such setting, the party requesting the setting shall submit a
20 completed request for hearing form. Any notice to set shall be mailed to
21 opposing parties at least ten days prior to the setting date.

22 **SECTION 12.** 8-43-215 (2) (a), Colorado Revised Statutes, is
23 amended to read:

24 **8-43-215. Orders - repeal.** (2) (a) By July 1, 2003, the division
25 of administrative ~~hearings~~ JUSTICE in the department of personnel shall
26 report in writing to the BUSINESS, LABOR, AND FINANCE COMMITTEE OF THE
27 SENATE AND THE business affairs and labor ~~committees~~ COMMITTEE of the

1 ~~senate and~~ house of representatives on the effect of eliminating the
2 issuance of summary orders that do not contain specific findings of fact
3 or conclusions of law from the process of adjudicating workers'
4 compensation claims.

5 **SECTION 13.** 8-43-315, Colorado Revised Statutes, is amended
6 to read:

7 **8-43-315. Witnesses and testimony - mileage - fees - costs.** The
8 director or any agent, deputy, or administrative law judge of the division
9 OF ADMINISTRATIVE JUSTICE has the power to issue subpoenas to compel
10 the attendance of witnesses or parties and the production of books, papers,
11 or records and to administer oaths. Any person who serves a subpoena
12 shall receive the same fee as the sheriff. Each witness who is subpoenaed
13 on behalf of the director and who appears in obedience thereto shall
14 receive for attendance the fees and mileage provided for witnesses in civil
15 cases in the district court, which shall be audited and paid from the state
16 treasury in the same manner as other expenses are audited and paid, upon
17 the presentation of a proper voucher approved by the director. The
18 director has the discretion to assess the cost of attendance and mileage of
19 witnesses subpoenaed by either party to any proceeding against the other
20 party to such proceeding when, in the director's judgment, the necessity
21 of subpoenaing such witnesses arises out of the raising of any
22 incompetent, irrelevant, or sham issues by such other party.

23 **SECTION 14.** 8-43-404 (3), Colorado Revised Statutes, is
24 amended to read:

25 **8-43-404. Examination - refusal - personal responsibility -**
26 **physicians to testify and furnish results.** (3) So long as the employee,
27 after written request by the employer or insurer, refuses to submit to

1 medical examination or vocational evaluation or in any way obstructs the
2 same, all right to collect, or to begin or maintain any proceeding for the
3 collection of, compensation shall be suspended. If the employee refuses
4 to submit to such examination after direction by the director or any agent,
5 referee, or administrative law judge ~~of the division~~ appointed pursuant to
6 section 8-43-208 (1) or in any way obstructs the same, all right to weekly
7 indemnity which accrues and becomes payable during the period of such
8 refusal or obstruction shall be barred. If any employee persists in any
9 unsanitary or injurious practice which tends to imperil or retard recovery
10 or refuses to submit to such medical or surgical treatment or vocational
11 evaluation as is reasonably essential to promote recovery, the director
12 shall have the discretion to reduce or suspend the compensation of any
13 such injured employee.

14 **SECTION 15.** 8-43-408 (2), Colorado Revised Statutes, is
15 amended to read:

16 **8-43-408. Default of employer - additional liability.** (2) In all
17 cases where compensation is awarded under the terms of this section, the
18 director or an administrative law judge ~~of the division~~ shall compute and
19 require the employer to pay to a trustee designated by the director or
20 administrative law judge an amount equal to the present value of all
21 unpaid compensation or benefits computed at the rate of four percent per
22 annum; or, in lieu thereof, such employer, within ten days after the date
23 of such order, shall file a bond with the director or administrative law
24 judge signed by two or more responsible sureties to be approved by the
25 director or by some surety company authorized to do business within the
26 state of Colorado. The bond shall be in such form and amount as
27 prescribed and fixed by the director and shall guarantee the payment of

1 the compensation or benefits as awarded. The filing of any appeal,
2 including a petition for review, shall not relieve the employer of the
3 obligation under this subsection (2) to pay the designated sum to a trustee
4 or to file a bond with the director or administrative law judge.

5 **SECTION 16.** 11-2-103.6 (1), Colorado Revised Statutes, is
6 amended to read:

7 **11-2-103.6. Hearing officers - powers - procedure - order final.**

8 (1) The board has the power to designate a person to act as a hearing
9 officer to conduct any public hearing authorized or required by this code
10 except in the case of charter applications which have been timely
11 protested pursuant to the rules and regulations of the banking board. The
12 board may determine the qualifications required for a person to be
13 designated pursuant to this subsection (1) based upon the education and
14 experience required for the particular hearing. Such person may, but need
15 not be, an administrative law judge serving pursuant to ~~section~~
16 ~~24-30-1003~~ PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S.

17 **SECTION 17.** 12-2-125 (1) (b), Colorado Revised Statutes, is
18 amended to read:

19 **12-2-125. Hearings before board - notice - procedure - review.**

20 (1) (b) The board, through the department of regulatory agencies, may
21 ~~employ~~ USE THE SERVICES OF administrative law judges SERVING
22 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., on a full-time
23 or part-time basis to conduct hearings as provided by this article or on any
24 matter within the board's jurisdiction upon such conditions and terms as
25 the board may determine.

26 **SECTION 18.** 12-6-119, Colorado Revised Statutes, is amended
27 to read:

1 **12-6-119. Procedure for denial, suspension, or revocation of**
2 **license - judicial review.** The denial, suspension, or revocation of
3 licenses issued under this part 1 shall be in accordance with the provisions
4 of sections 24-4-104 and 24-4-105, C.R.S.; except that the discovery
5 available under rule 26 (b) (2) of the Colorado rules of civil procedure is
6 available in any proceeding conducted by the board. The board may
7 appoint an administrative law judge pursuant to part 10 of article 30 of
8 title 24, C.R.S., or a hearing officer from among its membership to
9 conduct hearings for the board. Hearings conducted by a hearing officer
10 appointed from the board membership shall be in accordance with
11 procedures established by the board. Hearings conducted before an
12 administrative law judge shall be in accordance with the rules of
13 procedure of the division of administrative ~~hearings~~ JUSTICE. The court
14 of appeals shall have initial jurisdiction to review all final actions and
15 orders that are subject to judicial review of the board. Such proceedings
16 shall be conducted in accordance with section 24-4-106 (11), C.R.S.

17 **SECTION 19.** 12-8-131 (1), Colorado Revised Statutes, is
18 amended to read:

19 **12-8-131. Disciplinary proceedings - administrative law judges**
20 **- judicial review.** (1) The director may, through the department of
21 regulatory agencies, ~~employ~~ USE THE SERVICES OF administrative law
22 judges SERVING PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S.,
23 to conduct hearings as provided by this section or on any matter within the
24 director's jurisdiction upon such conditions and terms as the director may
25 determine.

26 **SECTION 20.** 12-32-108.3 (4), Colorado Revised Statutes, is
27 amended to read:

1 **12-32-108.3. Disciplinary action by board.** (4) The board,
2 through the department of regulatory agencies, may ~~employ~~ USE THE
3 SERVICES OF administrative law judges SERVING PURSUANT TO PART 10 OF
4 ARTICLE 30 OF TITLE 24, C.R.S., on a full-time or part-time basis, to
5 conduct hearings as provided by this article or on any matter within the
6 board’s jurisdiction upon such conditions and terms as the board may
7 determine.

8 **SECTION 21.** 12-33-119 (1), Colorado Revised Statutes, is
9 amended to read:

10 **12-33-119. Disciplinary proceedings.** (1) The board, through the
11 department of regulatory agencies, may ~~employ~~ USE THE SERVICES OF
12 administrative law judges SERVING PURSUANT TO PART 10 OF ARTICLE 30
13 OF TITLE 24, C.R.S., on a full-time or part-time basis, to conduct hearings
14 as provided by this article or on any matter within the board’s jurisdiction
15 upon such conditions and terms as the board may determine.

16 **SECTION 22.** 12-36-118 (5) (f), Colorado Revised Statutes, is
17 amended to read:

18 **12-36-118. Disciplinary action by board - immunity.**
19 (5) (f) Except as provided in subsection (1) of this section, an
20 administrative law judge shall preside at the hearing, and ~~he~~ THE
21 ADMINISTRATIVE LAW JUDGE shall advise the hearings panel on all such
22 legal matters in connection with the hearing as the panel may request. ~~He~~
23 THE ADMINISTRATIVE LAW JUDGE shall provide such advice or assistance
24 as the hearings panel may request in connection with its preparations of
25 its findings and recommendations or conclusions to be made. Such
26 administrative law judge shall have the authority to administer oaths and
27 affirmations, sign and issue subpoenas, and perform such other duties as

1 the hearings panel may authorize ~~him~~ THE ADMINISTRATIVE LAW JUDGE to
2 perform. Such administrative law judge shall ~~have the qualifications~~
3 ~~provided in section 24-30-1003 (2), C.R.S., with five years' experience as~~
4 ~~a licensed attorney~~ BE APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF
5 TITLE 24, C.R.S.

6 **SECTION 23.** 12-38-116.5 (4) (b), Colorado Revised Statutes, is
7 amended to read:

8 **12-38-116.5. Disciplinary procedures of the board - inquiry and**
9 **hearings panels.** (4) (b) Except as provided in subsection (1) of this
10 section, an administrative law judge SERVING UNDER PART 10 OF ARTICLE
11 30 OF TITLE 24, C.R.S., shall preside at the hearing and shall advise the
12 hearings panel on all such legal matters in connection with the hearing as
13 the panel may request. The administrative law judge shall provide such
14 advice or assistance as the hearings panel may request in connection with
15 the preparation of its findings and recommendations or conclusions. Such
16 administrative law judge shall have the authority to administer oaths and
17 affirmations, sign and issue subpoenas, and perform such other duties as
18 the hearings panel may authorize the administrative law judge to perform.
19 ~~Such administrative law judge shall have the qualifications provided in~~
20 ~~section 24-30-1003 (2), C.R.S.~~

21 **SECTION 24.** 12-43-224 (2) (b), Colorado Revised Statutes, is
22 amended to read:

23 **12-43-224. Disciplinary proceedings - judicial review - mental**
24 **and physical examinations - multiple licenses.** (2) (b) Each board,
25 through the department of regulatory agencies, may ~~employ~~ USE THE
26 SERVICES OF administrative law judges ~~on a full-time or part-time basis,~~
27 FROM THE DIVISION OF ADMINISTRATIVE JUSTICE IN THE DEPARTMENT OF

1 PERSONNEL, to conduct hearings as provided by this article or on any
2 matter within the board's jurisdiction upon such conditions and terms as
3 such board may determine. A board may elect to refer a case for formal
4 hearing to an administrative law judge, with or without an assigned
5 advisor from such board. If a board so elects to refer a case with an
6 assigned advisor and such advisor is a member of the board, the advisor
7 shall be excluded from such board's review of the decision of the
8 administrative law judge. The advisor shall assist the administrative law
9 judge in obtaining and interpreting data pertinent to the hearing.

10 **SECTION 25.** 12-55.5-106 (2), Colorado Revised Statutes, is
11 amended to read:

12 **12-55.5-106. Disciplinary actions - grounds for discipline.**

13 (2) Any proceeding to deny, suspend, revoke, or place on probation a
14 registration shall be conducted pursuant to sections 24-4-104 and
15 24-4-105, C.R.S. The director may use an administrative law judge
16 employed by the division of administrative ~~hearings~~ JUSTICE in the
17 department of personnel to conduct hearings. Any person whose
18 registration is denied, suspended, placed on probation, or revoked shall
19 pay for the costs incurred in bringing and conducting such proceeding.

20 **SECTION 26.** 12-59-103 (1), Colorado Revised Statutes, is
21 amended to read:

22 **12-59-103. Definitions.** As used in this article, unless the context
23 otherwise requires:

24 (1) "Administrative law judge" means a person, ~~appointed by the~~
25 ~~authority from a list provided by the attorney general~~ SERVING UNDER THE
26 PROVISIONS OF PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., who shall
27 conduct hearings on any matter which is within the jurisdiction of the

1 division and which is referred to such administrative law judge by the
2 division.

3 **SECTION 27.** 12-59-105.3 (1) (h), Colorado Revised Statutes, is
4 amended to read:

5 **12-59-105.3. Powers and duties of board.** (1) The board shall
6 have the following powers and duties:

7 (h) To ~~appoint~~ USE THE SERVICES OF administrative law judges
8 PURSUANT TO THE PROVISIONS OF PART 10 OF ARTICLE 30 OF TITLE 24,
9 C.R.S., to conduct hearings on any matter within the jurisdiction of the
10 board, which shall include the conduct of hearings in aid of any
11 investigation or inquiry pursuant to paragraph (f) of this subsection (1);

12 **SECTION 28.** 13-4-102 (2), Colorado Revised Statutes, is
13 amended BY THE ADDITION OF THE FOLLOWING NEW
14 PARAGRAPHS to read:

15 **13-4-102. Jurisdiction.** (2) The court of appeals shall have initial
16 jurisdiction to:

17 (hh) REVIEW FINAL ACTIONS AND ORDERS APPROPRIATE FOR
18 JUDICIAL REVIEW OF THE STATE BOARD OF EDUCATION UNDER THE
19 PROVISIONS OF SECTION 22-60.5-108 (2), C.R.S.

20 (ii) REVIEW FINAL ACTIONS AND ORDERS APPROPRIATE FOR
21 JUDICIAL REVIEW UNDER THE "COLORADO HUMAN SERVICES CODE", TITLE
22 26, C.R.S.

23 (jj) REVIEW FINAL ACTIONS OF THE EXECUTIVE DIRECTOR OF THE
24 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING UNDER THE
25 PROVISIONS OF SECTION 25.5-1-107, C.R.S.

26 **SECTION 29.** 19-3-313 (7) (d) (II) (A), Colorado Revised
27 Statutes, is amended to read:

1 **19-3-313. Central registry - repeal.**

2 (7) (d) (II) (A) Notwithstanding the provisions of subparagraph (I) of this
3 paragraph (d), the director may request a hearing to reinstate on the
4 central registry a subject's name pertaining to an act or acts that supported
5 a dismissed or acquitted criminal charge. Such hearing request shall be
6 filed with the division of administrative ~~hearings~~ JUSTICE in the
7 department of personnel within thirty days after the date the director
8 receives notice of the acquittal or dismissal. The division shall send
9 written notice of the hearing to the subject by certified mail. A hearing
10 shall not be held if the department fails to request the hearing within thirty
11 days after the date the director received notice of the acquittal or
12 dismissal. The hearing shall be held as soon as possible after the hearing
13 is requested.

14 **SECTION 30.** 22-60.5-108, Colorado Revised Statutes, is
15 amended to read:

16 **22-60.5-108. Procedure - denial, suspension, annulment, or**
17 **revocation - license, certificate, endorsement, or authorization -**
18 **judicial review.** (1) Procedures for the denial, suspension, revocation,
19 or annulment of any license, certificate, endorsement, or authorization
20 shall be in accordance with the provisions of sections 24-4-102 to
21 24-4-107, C.R.S.; except that, where judicial review is pending or the time
22 in which to seek judicial review has not elapsed, the department of
23 education may take emergency action relating to the annulment,
24 suspension, or revocation of any license, certificate, endorsement, or
25 authorization, and the expiration date of any license, certificate,
26 endorsement, or authorization shall not be extended, even though judicial
27 review is pending or the time for seeking such review has not elapsed.

1 (2) THE COURT OF APPEALS SHALL HAVE INITIAL JURISDICTION TO
2 REVIEW ALL FINAL ACTIONS AND ORDERS OF THE STATE BOARD OF
3 EDUCATION WITH RESPECT TO DENIAL, SUSPENSION, REVOCATION, OR
4 ANNULMENT OF ANY LICENSE, CERTIFICATE, ENDORSEMENT, OR
5 AUTHORIZATION UNDER THE PROVISIONS OF THIS ARTICLE THAT ARE
6 SUBJECT TO JUDICIAL REVIEW. SUCH PROCEEDING SHALL BE CONDUCTED
7 IN ACCORDANCE WITH SECTION 24-4-106 (11), C.R.S.

8 **SECTION 31.** 22-63-302 (4) (a), Colorado Revised Statutes, is
9 amended to read:

10 **22-63-302. Procedure for dismissal - judicial review.** (4) (a) If
11 the teacher requests a hearing, it shall be conducted before an impartial
12 hearing officer selected jointly by the teacher and the chief administrative
13 officer. The hearing officer shall be selected no later than five working
14 days following the receipt by the chief administrative officer of the
15 teacher's written notice of objection. If the teacher and the chief
16 administrative officer fail to agree on the selection of a hearing officer,
17 they shall request assignment of an administrative law judge by the
18 DIVISION OF ADMINISTRATIVE JUSTICE IN THE department of personnel to
19 act as the hearing officer.

20 **SECTION 32.** 24-1-128 (7) (f), Colorado Revised Statutes, is
21 amended to read:

22 **24-1-128. Department of personnel - creation.** (7) The
23 department of personnel shall include the following administrative support
24 services:

25 (f) Division of administrative ~~hearings~~ JUSTICE, the head of which
26 shall be the ~~executive director of the department of personnel~~ DIRECTOR
27 OF THE DIVISION OF ADMINISTRATIVE JUSTICE. The division of

1 administrative ~~hearings~~ JUSTICE, created by part 10 of article 30 of this
2 title, and its powers, duties, and functions are transferred by a **type 2**
3 transfer to the department of personnel as a division thereof.

4 **SECTION 33.** 24-4-102, Colorado Revised Statutes, is amended
5 BY THE ADDITION OF A NEW SUBSECTION to read:

6 **24-4-102. Definitions.** As used in this article, unless the context
7 otherwise requires:

8 (2.5) "ADMINISTRATIVE LAW JUDGE" MEANS AN EXECUTIVE
9 BRANCH OFFICIAL WHO MEETS THE CRITERIA SET FORTH IN SECTION
10 24-30-1004 (1) AND (2) AND WHO EXERCISES INDEPENDENT LEGAL
11 JUDGMENT IN THE CONDUCT OF QUASI-JUDICIAL HEARINGS AND EVALUATES
12 EVIDENCE AND WITNESSES TO ADJUDICATE JUSTICIABLE INTERESTS
13 BETWEEN ADVERSE PARTIES.

14 **SECTION 34.** 24-4-105 (3), Colorado Revised Statutes, is
15 amended to read:

16 **24-4-105. Hearings and determinations.** (3) At a ANY hearing
17 only one of the following may preside: The agency, an administrative law
18 judge ~~from the division of administrative hearings~~ AUTHORIZED PURSUANT
19 TO SECTION 24-30-1002 (2), or, if otherwise authorized by law, a hearing
20 officer who if authorized by law may be a member of the body ~~which~~
21 THAT comprises the agency. Upon the filing in good faith by a party of
22 a timely and sufficient affidavit of personal bias of an administrative law
23 judge or a hearing officer or a member of the agency or the agency, the
24 administrative law judge, hearing officer, or agency shall forthwith rule
25 upon the allegations in such affidavit as part of the record in the case. An
26 administrative law judge or a hearing officer may at any time withdraw if
27 he OR SHE deems himself OR HERSELF disqualified or for any other good

1 reason in which case another administrative law judge or hearing officer
2 may be assigned to continue the case, and ~~he~~ SUCH PERSON shall do so in
3 such manner that no substantial prejudice to any party results therefrom.
4 An agency or a member of an agency may withdraw for any like reason
5 and in like manner, unless his OR HER withdrawal makes it impossible for
6 the agency to render a decision.

7 **SECTION 35. Repeal.** 24-18-112 (2) (d), Colorado Revised
8 Statutes, is repealed as follows:

9 **24-18-112. Board of ethics for the executive branch - created**
10 **- duties.** (2) The board of ethics for the executive branch shall:

11 (d) ~~Review appeals brought before the board of ethics pursuant to~~
12 ~~section 24-30-1003 (4).~~

13 **SECTION 36.** 24-35-204 (3) (e), Colorado Revised Statutes, is
14 amended to read:

15 **24-35-204. Director - qualifications - powers and duties.**

16 (3) The director, as administrative head of the division, shall direct and
17 supervise all its administrative and technical activities. In addition to the
18 duties imposed upon the director elsewhere in this part 2, it shall be the
19 director's duty:

20 (e) To deny, suspend, or revoke any lottery license subject to the
21 provisions of section 24-4-104. The director may ~~designate~~ USE THE
22 SERVICES OF an administrative law judge, pursuant to part 10 of article 30
23 of this title, to take evidence and to make findings and report them to the
24 director.

25 **SECTION 37.** 24-50-103 (7), Colorado Revised Statutes, is
26 amended to read:

27 **24-50-103. State personnel board.** (7) The board ~~may employ~~

1 ~~administrative law judges who shall be lawyers with at least five years'~~
2 ~~experience and shall employ such personnel as may be necessary for the~~
3 ~~performance of its duties, including an administrator who shall serve as~~
4 ~~secretary to the board with such duties as the board may assign. Funds for~~
5 ~~these purposes shall be appropriated by the general assembly.~~

6 **SECTION 38.** 24-50-139, Colorado Revised Statutes, is amended
7 to read:

8 **24-50-139. Administrative law judges - duties - qualifications.**

9 The board may ~~authorize~~ USE THE SERVICES OF administrative law judges
10 IN THE DIVISION OF ADMINISTRATIVE JUSTICE to conduct hearings on any
11 ~~matter within the jurisdiction of the board upon such conditions and terms~~
12 ~~as the board may determine and subject to the provisions of section 24-50-~~
13 ~~103 (7) and article 4 of this title.~~

14 **SECTION 39. Repeal.** 24-50.3-104 (3) (g), Colorado Revised
15 Statutes, is repealed as follows:

16 **24-50.3-104. Powers and duties of executive director.** (3) In
17 order to perform these duties, the executive director shall have the power
18 to:

19 (g) ~~Promulgate procedural rules governing the conduct of hearings~~
20 ~~before the division of administrative hearings.~~

21 **SECTION 40.** 25-7-508 (1) and (3), Colorado Revised Statutes,
22 are amended to read:

23 **25-7-508. Grounds for disciplinary action - letters of**
24 **admonition - denial of certification - suspension, revocation, or refusal**
25 **to renew - requirement for corrective education - administrative fines.**

26 (1) When an application for certification pursuant to section 25-7-505,
27 25-7-506, or 25-7-507 is denied by the division, the applicant may contest

1 the decision of the division by requesting a hearing before the division of
2 administrative ~~hearings~~ JUSTICE. A request for a hearing must be made
3 within thirty calendar days after the division has issued a denial of the
4 application in writing to the applicant. Such hearing shall be held
5 pursuant to section 25-7-119.

6 (3) A person aggrieved by an action taken by the division pursuant
7 to subsection (2) of this section may contest the action by requesting a
8 hearing before the division of administrative ~~hearings~~ JUSTICE within
9 thirty days after the applicant is notified in writing of the division's action.
10 Such hearing shall be held pursuant to section 25-7-119. Any person
11 aggrieved by an action taken by the division of administrative ~~hearings~~
12 JUSTICE pursuant to subsection (2) of this section may appeal such action
13 to the court of appeals in accordance with section 24-4-106 (11), C.R.S.

14 **SECTION 41.** 25-15-308 (3) (a), Colorado Revised Statutes, is
15 amended to read:

16 **25-15-308. Prohibited acts - enforcement.** (3) (a) Any appeal
17 of an order issued by the department pursuant to this section shall be taken
18 in accordance with the provisions of this section. Notice of appeal shall
19 be filed by personal service or by registered mail, return receipt requested,
20 with the division of administrative ~~hearings~~ JUSTICE in the department of
21 personnel, with the executive director of the department or the executive
22 director's designee, and with the commission in the case of an appeal of
23 an administrative law judge's determination concerning an administrative
24 penalty assessment. Notice of appeal shall be filed no later than thirty
25 calendar days after the effective date of the order which is the subject of
26 the appeal.

27 **SECTION 42.** 25.5-1-107 (1) (a) and (1) (c), Colorado Revised

1 Statutes, are amended, and the said 25.5-1-107 is further amended BY
2 THE ADDITION OF A NEW SUBSECTION, to read:

3 **25.5-1-107. Final agency action - administrative law judge -**
4 **authority of executive director - direction to seek waiver of single state**
5 **agency requirement - repeal.** (1) (a) The executive director may
6 appoint one or more persons to serve as administrative law judges for the
7 state department pursuant to section 24-4-105, C.R.S., and pursuant to
8 part 10 of article 30 of title 24, C.R.S., subject to appropriations made to
9 the DIVISION OF ADMINISTRATIVE JUSTICE IN THE department of personnel.
10 Except as provided in subsection (2) of this section, hearings conducted
11 by the administrative law judge shall be considered initial decisions of the
12 state department and shall be reviewed by the executive director or a
13 designee of the executive director. In the event exceptions to the initial
14 decision are filed pursuant to section 24-4-105 (14) (a) (I), C.R.S., such
15 review shall be in accordance with section 24-4-105 (15), C.R.S. In the
16 absence of any exception filed pursuant to section 24-4-105 (14) (a) (I),
17 C.R.S., the executive director shall review the initial decision in
18 accordance with a procedure adopted by the state board. Such procedure
19 shall be consistent with federal mandates concerning the single state
20 agency requirement. Review by the executive director in accordance with
21 section 24-4-105 (15), C.R.S., or the procedure adopted by the state board
22 pursuant to this section shall constitute final agency action. The
23 administrative law judge may conduct hearings on appeals from decisions
24 of county departments of social services brought by recipients of and
25 applicants for public assistance and welfare which are required by law in
26 order for the state to qualify for federal funds, and the administrative law
27 judge may conduct other hearings for the state department. Notice of any

1 such hearing shall be served at least ten days prior to such hearing.

2 (c) The state department, in consultation with the division of
3 administrative ~~hearings~~ JUSTICE in the department of personnel, is directed
4 by the general assembly to request any waivers from the appropriate
5 federal authorities or agencies which have the authority to waive the
6 single state agency requirement for the administration of a grant program
7 with respect to the procedures for final agency action that are set forth in
8 subsection (2) of this section. In developing the waiver request as
9 required under this section, the state department shall consult with any
10 appropriate advisory committees and other interested parties regarding the
11 contents of such waiver request.

12 (3) THE COURT OF APPEALS SHALL HAVE INITIAL JURISDICTION TO
13 REVIEW ALL FINAL AGENCY ACTIONS AND ORDERS UNDER THIS SECTION
14 THAT ARE SUBJECT TO JUDICIAL REVIEW. SUCH PROCEEDING SHALL BE
15 CONDUCTED IN ACCORDANCE WITH SECTION 24-4-106 (11), C.R.S.

16 **SECTION 43.** 26-1-106 (1) (a) and (1) (c), Colorado Revised
17 Statutes, are amended, and the said 26-1-106 is further amended BY THE
18 ADDITION OF A NEW SUBSECTION, to read:

19 **26-1-106. Final agency action - administrative law judge -**
20 **authority of executive director - direction to seek waiver of single state**
21 **agency requirement - repeal.** (1) (a) The executive director may
22 appoint one or more persons to serve as administrative law judges for the
23 state department pursuant to section 24-4-105, C.R.S., and pursuant to
24 part 10 of article 30 of title 24, C.R.S., subject to appropriations made to
25 the DIVISION OF ADMINISTRATIVE JUSTICE IN THE department of personnel.
26 Except as provided in subsection (2) of this section, hearings conducted
27 by the administrative law judge shall be considered initial decisions of the

1 state department which shall be reviewed by the executive director or a
2 designee. In the event exceptions to the initial decision are filed pursuant
3 to section 24-4-105 (14) (a) (I), C.R.S., such review shall be in
4 accordance with section 24-4-105 (15), C.R.S. In the absence of any
5 exception filed pursuant to section 24-4-105 (14) (a) (I), C.R.S., the
6 executive director shall review the initial decision in accordance with a
7 procedure adopted by the state board. Such procedure shall be consistent
8 with federal mandates concerning the single state agency requirement.
9 Review by the executive director in accordance with section 24-4-105
10 (15), C.R.S., or the procedure adopted by the state board pursuant to this
11 section shall constitute final agency action. The administrative law judge
12 may conduct hearings on appeals from decisions of county departments
13 brought by recipients of and applicants for public assistance and welfare
14 which are required by law in order for the state to qualify for federal
15 funds, and may conduct other hearings for the state department. Notice
16 of any such hearing shall be served at least ten days prior to such hearing.

17 (c) The state department, in consultation with the division of
18 administrative ~~hearings~~ JUSTICE in the department of personnel, is directed
19 by the general assembly to request any waivers from the appropriate
20 federal authorities or agencies which have the authority to waive the
21 single state agency requirement for the administration of a grant program
22 with respect to the procedures for final agency action that are set forth in
23 subsection (2) of this section. In developing the waiver as required under
24 this section, the state department shall consult with any appropriate
25 advisory committees and other interested parties regarding the contents of
26 such waiver request.

27 (4) THE COURT OF APPEALS SHALL HAVE INITIAL JURISDICTION TO

1 REVIEW ALL FINAL ACTIONS AND ORDERS UNDER THIS SECTION THAT ARE
2 SUBJECT TO JUDICIAL REVIEW. SUCH PROCEEDING SHALL BE CONDUCTED
3 IN ACCORDANCE WITH SECTION 24-4-106 (11), C.R.S.

4 **SECTION 44.** 26-2-127 (1) (a) (II) and (3), Colorado Revised
5 Statutes, are amended to read:

6 **26-2-127. Appeals.** (1) (a) (II) Upon receipt of an appeal, the
7 state department shall give the appellant reasonable notice and an
8 opportunity for a fair hearing in accordance with rules of the state
9 department. Any such fair hearing shall comply with section 24-4-105,
10 C.R.S., and ~~the state department's~~ AN administrative law judge shall
11 preside.

12 (3) The state department, the department of health care policy and
13 financing, and the division of administrative ~~hearings~~ JUSTICE in the
14 department of personnel shall work together to streamline the process for
15 the appeal of disputes that are not resolved at the county level and shall
16 consider proposed legislative changes or federal waivers for the successor
17 program to aid to families with dependent children in order to address
18 changes in the appeals process to avoid or mitigate expenses to counties
19 of maintaining benefits during the pendency of state-level appeals.

20 **SECTION 45.** 26-4-402 (1) (a) (II), Colorado Revised Statutes,
21 is amended, and the said 26-4-402 is further amended BY THE
22 ADDITION OF A NEW SUBSECTION, to read:

23 **26-4-402. Appeals.** (1) (a) (II) Upon receipt of an appeal, the
24 state department shall give the appellant at least ten days' notice and an
25 opportunity for a fair hearing in accordance with the rules of the state
26 department. Any such fair hearing shall comply with section 24-4-105,
27 C.R.S., and ~~the state department's~~ AN administrative law judge shall

1 preside.

2 (3) THE COURT OF APPEALS SHALL HAVE INITIAL JURISDICTION TO
3 REVIEW ALL FINAL ACTIONS AND ORDERS UNDER THIS SECTION THAT ARE
4 SUBJECT TO JUDICIAL REVIEW OF THE STATE DEPARTMENT. SUCH
5 PROCEEDING SHALL BE CONDUCTED IN ACCORDANCE WITH SECTION
6 24-4-106 (11), C.R.S.

7 **SECTION 46.** 26-6-108 (3), Colorado Revised Statutes, is
8 amended to read:

9 **26-6-108. Denial of original license - suspension - revocation -**
10 **probation - refusal to renew license - fines.** (3) The department shall
11 suspend or revoke a license only in conformity with the provisions and
12 procedures specified in article 4 of title 24, C.R.S., and after a hearing
13 thereon as provided in said article 4; except that all hearings under this
14 part 1 shall be conducted by an administrative law judge ~~of the department~~
15 who shall render his or her recommendation to the executive director of
16 the department of human services who shall render the final decision of
17 the department, and no licensee shall be entitled to a right to cure any of
18 the charges described in paragraph (a), (b), (c), or (k) (I) of subsection (2)
19 of this section. No such hearing shall prevent or delay any injunctive
20 proceedings instituted under the provisions of section 26-6-111.

21 **SECTION 47.** 26-6-114 (4), Colorado Revised Statutes, is
22 amended to read:

23 **26-6-114. Civil penalties - fines - child care cash fund - created.**
24 (4) The department may assess a civil penalty in conformity with the
25 provisions and procedures specified in article 4 of title 24, C.R.S.; except
26 that all hearings conducted pursuant to this section shall be before an
27 administrative law judge, ~~of the department~~, who shall render his or her

1 recommendation to the executive director of the department who shall
2 render the final decision of the department.

3 **SECTION 48.** 26-7-107, Colorado Revised Statutes, is amended
4 to read:

5 **26-7-107. Appeals.** In any case where an application under this
6 article is denied or a grant of subsidization of adoption is reduced or
7 terminated, the applicant or recipient shall have the right to appeal to the
8 department, with a hearing before ~~a department~~ AN administrative law
9 judge in accordance with the "State Administrative Procedure Act". A
10 hearing need not be granted when either state or federal law requires or
11 results in a reduction or deletion of services.

12 **SECTION 49.** 33-1-111, Colorado Revised Statutes, is amended
13 to read:

14 **33-1-111. Hearings - administrative law judges.** Every hearing
15 provided for in articles 1 to 6 of this title to be conducted by the
16 commission or the division shall, except as provided in sections 33-4-101
17 and 33-6-106, be conducted by such agency or an administrative law
18 judge designated by such agency pursuant to part 10 of article 30 of title
19 24, C.R.S., subject to appropriations for such administrative law judges
20 made to the DIVISION OF ADMINISTRATIVE JUSTICE IN THE department of
21 personnel, and every hearing shall comply with the provisions of articles
22 1 to 6 of this title and the provisions of article 4 of title 24, C.R.S.

23 **SECTION 50.** 35-27-114 (2) (d) (III), Colorado Revised Statutes,
24 is amended to read:

25 **35-27-114. Powers and duties of commissioner.** (2) In addition
26 to any other powers conferred in this article, the commissioner may:

27 (d) (III) Subject to appropriations made to the department, employ

1 USE THE SERVICES OF administrative law judges SERVING PURSUANT TO
2 THE PROVISIONS OF PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., on a full-
3 or part-time basis to conduct such hearings;

4 **SECTION 51.** 37-91-104 (1) (f), Colorado Revised Statutes, is
5 amended to read:

6 **37-91-104. Duties of the board.** (1) The board shall:

7 (f) Conduct hearings upon its own motion or upon receipt of
8 written complaints with respect to any licensee under this article and with
9 respect to the denial, revocation, or suspension of a license, all such
10 hearings to be conducted in conformity with article 4 of title 24, C.R.S.
11 The board may have such hearings conducted before a hearing officer or
12 administrative law judge from the DIVISION OF ADMINISTRATIVE JUSTICE
13 IN THE department of personnel designated by the board, who is
14 technically qualified to conduct or assist in such hearings and who may
15 be a member of the board.

16 **SECTION 52.** 43-2-147 (6) (c), Colorado Revised Statutes, is
17 amended to read:

18 **43-2-147. Access to public highways.** (6) (c) Any party who has
19 received an adverse decision by the department of transportation may
20 request and shall receive a hearing before the transportation commission
21 or before an administrative law judge from the DIVISION OF
22 ADMINISTRATIVE JUSTICE IN THE department of personnel, at the discretion
23 of the transportation commission. Such hearing shall be conducted in
24 accordance with the provisions of article 4 of title 24, C.R.S. Decisions
25 by the transportation commission or by an administrative law judge shall
26 be considered final agency action.

27 **SECTION 53. Appropriation - adjustments in 2001 long bill.**

1 (1) In addition to any other appropriation, there is hereby appropriated
2 out of moneys in the general fund not otherwise appropriated, to the
3 department of personnel, personnel board, for administrative law judge
4 services, the sum of one hundred sixty-two thousand seven hundred
5 seventy-five dollars (\$162,775), or so much thereof as may be necessary,
6 for the implementation of this act.

7 (2) In addition to any other appropriation, there is hereby
8 appropriated out of moneys in the workers compensation cash fund not
9 otherwise appropriated, to the department of labor and employment,
10 division of workers' compensation, for administrative law judge services,
11 the sum of five hundred seventy-six thousand five hundred ninety-six
12 dollars (\$576,596), or so much thereof as may be necessary, for the
13 implementation of this act.

14 (3) In addition to any other appropriation, there is hereby
15 appropriated, to the department of personnel, division of administrative
16 justice, the sum of six hundred seventy-eight thousand seven hundred
17 ninety-five dollars (\$678,795) and 9.0 FTE, or so much thereof as may be
18 necessary, for the provision of administrative law judge services to the
19 department of personnel, personnel board, and the department of labor
20 and employment, division of workers' compensation. Said sum shall be
21 from cash funds exempt received from the department of personnel out of
22 the appropriation made in subsection (1) of this section and from the
23 department of labor and employment out of the appropriation made in
24 subsection (2) of this section. In addition, said sum shall be allocated to
25 the division of administrative justice as follows: Five hundred
26 ninety-three thousand six hundred seventy-four dollars (\$593,674) and 9.0
27 FTE shall be for personal services; nineteen thousand one hundred

1 twenty-one dollars (\$19,121) shall be for operating expenses; fifty
2 thousand dollars (\$50,000) shall be for relocation expenses; and sixteen
3 thousand dollars (\$16,000) shall be for training.

4 (4) In addition to any other appropriation, there is hereby
5 appropriated, to the department of personnel, executive director's office,
6 for centrally appropriated line items for FTE added in subsection (3) of
7 this section, the sum of sixty thousand five hundred seventy-six dollars
8 (\$60,576), or so much thereof as may be necessary, for the
9 implementation of this act. Said sum shall be from cash funds exempt
10 received from the department of personnel out of the appropriation made
11 in subsection (1) of this section and from the department of labor and
12 employment out of the appropriation made in subsection (2) of this
13 section.

14 (5) For the implementation of this act, appropriations made in the
15 annual general appropriations act for the fiscal year beginning July 1,
16 2001, shall be adjusted as follows:

17 (a) The general fund appropriation to the department of personnel,
18 personnel board, for personal services is decreased by one hundred
19 fifty-eight thousand thirty-five dollars (\$158,035) and 2.0 FTE and the
20 general fund appropriation for operating expenses is decreased by two
21 thousand two hundred eight dollars (\$2,208).

22 (b) The general fund appropriation to the department of personnel,
23 executive director's office, for centrally appropriated line items made on
24 behalf of the personnel board FTE that are being decreased in paragraph
25 (a) of this subsection (5) is decreased by two thousand five hundred
26 thirty-two dollars (\$2,532).

27 (c) The cash fund appropriation to the department of labor and

1 employment, division of workers' compensation, for personal services, is
2 decreased by five hundred one thousand six hundred thirty-nine dollars
3 (\$501,639) and 8.0 FTE, and the cash fund appropriation for operating
4 expenses is decreased by sixteen thousand nine hundred thirteen dollars
5 (\$16,913).

6 (d) The cash fund appropriation to the department of labor and
7 employment for centrally appropriated line items made on behalf of the
8 division of workers' compensation FTE that are being decreased in
9 paragraph (c) of this subsection (5) is decreased by sixty-one thousand
10 two hundred twenty-four dollars (\$61,224).

11 (e) The cash fund exempt appropriation to the department of
12 personnel, for centrally appropriated line items made on behalf of the
13 division of administrative hearings are to be used on behalf of the division
14 of administrative justice, created in section 24-30-1002, Colorado Revised
15 Statutes.

16 (f) The cash fund exempt appropriation to the department of
17 personnel, division of administrative hearings is transferred to the
18 department of personnel, division of administrative justice, created in
19 section 24-30-1002, Colorado Revised Statutes.

20 **SECTION 54. Effective date - applicability.** This act shall take
21 effect July 1, 2001, and shall apply to acts occurring on or after said date.

22 **SECTION 55. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.