

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE A. ADMINISTRATIVE PROCEDURE AND PRACTICE

CHAPTER 2003. STATE OFFICE OF ADMINISTRATIVE HEARINGS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2003.001. DEFINITIONS. In this chapter:

(1) "Administrative law judge" means an individual who presides at an administrative hearing held under Chapter 2001.

(2) "Alternative dispute resolution procedure" has the meaning assigned by Section 2009.003.

(3) "Office" means the State Office of Administrative Hearings.

(4) "State agency" means:

(A) a state board, commission, department, or other agency that is subject to Chapter 2001; and

(B) to the extent provided by Title 5, Labor Code, the Texas Department of Insurance, as regards proceedings and activities under Title 5, Labor Code, of the department, the commissioner of insurance, or the commissioner of workers' compensation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 980, Sec. 3.01, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 934, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 19.02(9), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1352, Sec. 7, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 6.009, eff. September 1, 2005.

SUBCHAPTER B. STATE OFFICE OF ADMINISTRATIVE HEARINGS

Sec. 2003.021. OFFICE. (a) The State Office of Administrative Hearings is a state agency created to serve as an independent forum for the conduct of adjudicative hearings in the executive branch of state government. The purpose of the office is

to separate the adjudicative function from the investigative, prosecutorial, and policymaking functions in the executive branch in relation to hearings that the office is authorized to conduct.

(b) The office:

(1) shall conduct all administrative hearings in contested cases under Chapter 2001 that are before a state agency that does not employ an individual whose only duty is to preside as a hearings officer over matters related to contested cases before the agency;

(2) shall conduct administrative hearings in matters for which the office is required to conduct the hearing under other law;

(3) shall conduct alternative dispute resolution procedures that the office is required to conduct under law; and

(4) may conduct, for a fee and under a contract, administrative hearings or alternative dispute resolution procedures in matters voluntarily referred to the office by a governmental entity.

(c) The office shall conduct hearings under Title 5, Labor Code, as provided by that title. In conducting hearings under Title 5, Labor Code, the office shall consider the applicable substantive rules and policies of the division of workers' compensation of the Texas Department of Insurance regarding workers' compensation claims. The office and the Texas Department of Insurance shall enter into an interagency contract under Chapter 771 to pay the costs incurred by the office in implementing this subsection.

(d) The office shall conduct hearings under the Agriculture Code as provided under Section 12.032, Agriculture Code. In conducting hearings under the Agriculture Code, the office shall consider the applicable substantive rules and policies of the Department of Agriculture.

(e) The office shall conduct all hearings in contested cases under Chapter 2001 that are before the commissioner of public health or the Texas Board of Health or Texas Department of Health.

(f) The office may adopt a seal to authenticate the official acts of the office and of its administrative law judges.

(g) The office shall conduct all hearings in contested cases under Chapter 2001 that are before the Texas Department of Licensing and Regulation under Chapter 51, Occupations Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 419, Sec. 3.29, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 980, Sec. 3.02, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 934, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 85, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1411, Sec. 1.01, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(65), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1215, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 6.010, eff. September 1, 2005.

Sec. 2003.022. CHIEF ADMINISTRATIVE LAW JUDGE. (a) The office is under the direction of a chief administrative law judge appointed by the governor for a two-year term that expires on May 15 of each even-numbered year. The chief administrative law judge is eligible for reappointment.

(b) To be eligible for appointment as chief administrative law judge, an individual must:

(1) be licensed to practice law in this state; and

(2) for at least five years, have:

(A) practiced administrative law;

(B) conducted administrative hearings under Chapter 2001; or

(C) engaged in a combination of the two activities listed in Paragraphs (A) and (B).

(c) The chief administrative law judge may not engage in the practice of law while serving as chief administrative law judge. The chief administrative law judge serves in a full-time position.

(d) The chief administrative law judge shall:

(1) supervise the office;

(2) protect and ensure the decisional independence of each administrative law judge;

(3) adopt a code of conduct for administrative law

judges that may be modeled on the Code of Judicial Conduct; and

(4) monitor the quality of administrative hearings conducted by the office.

(e) The appointment of the chief administrative law judge shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 212, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 85, Sec. 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1215, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 194 (S.B. 528), Sec. 1, eff. September 1, 2017.

Sec. 2003.0221. REMOVAL OF CHIEF ADMINISTRATIVE LAW JUDGE. It is a ground for removal from the position of chief administrative law judge that an appointee:

(1) does not have at the time of taking office the qualifications required by Section 2003.022(b);

(2) does not maintain during service as chief administrative law judge a license to practice law in this state;

(3) is ineligible to hold the position under Section 2003.0225;

(4) cannot, because of illness or disability, discharge the appointee's duties for a substantial part of the appointee's term; or

(5) engages in the practice of law in violation of Section 2003.022(c).

Added by Acts 2003, 78th Leg., ch. 1215, Sec. 4, eff. Sept. 1, 2003.

Sec. 2003.0225. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not hold the position of chief

administrative law judge and may not be employed by the office in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in any field regulated by an agency for which the office is required to conduct administrative hearings; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in any field regulated by an agency for which the office is required to conduct administrative hearings.

(c) A person may not hold the position of chief administrative law judge or act as the general counsel to the chief administrative law judge or the office if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the office, including a profession that is licensed by an agency for which the office is required to conduct administrative hearings.

Added by Acts 2003, 78th Leg., ch. 1215, Sec. 5, eff. Sept. 1, 2003.

Sec. 2003.0226. INFORMATION REGARDING REQUIREMENTS FOR EMPLOYMENT AND STANDARDS OF CONDUCT. The chief administrative law judge or the chief administrative law judge's designee shall provide to office employees, as often as necessary, information regarding the requirements for employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state employees.

Added by Acts 2003, 78th Leg., ch. 1215, Sec. 5, eff. Sept. 1, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1545, 89th Legislature, Regular Session, for amendments affecting the

following section.

Sec. 2003.023. SUNSET PROVISION. The State Office of Administrative Hearings is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The office shall be reviewed during the periods in which state agencies abolished in 2027 and every 12th year after 2027 are reviewed.

Added by Acts 1997, 75th Leg., ch. 210, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1169, Sec. 2.04, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1215, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. [2154](#)), Sec. 2, eff. September 1, 2015.

Sec. 2003.024. INTERAGENCY CONTRACTS; ANTICIPATED HOURLY USAGE AND COST ESTIMATES. (a) If a state agency referred matters to the office during any of the three most recent state fiscal years for which complete information about the agency's hourly usage is available and the costs to the office of conducting hearings and alternative dispute resolution procedures for the state agency are not to be paid by appropriations to the office during a state fiscal biennium, the office and the agency shall enter into an interagency contract for the biennium under which the referring agency pays the office either a lump-sum amount at the start of each fiscal year of the biennium or a fixed amount at the start of each fiscal quarter of the biennium for all services provided to the agency during the fiscal year. The office shall report to the Legislative Budget Board any agency that fails to make a timely payment under the contract. The lump-sum or quarterly amount paid to the office under the contract must be based on:

(1) an hourly rate that is set by the office:

(A) in an amount that sufficiently covers the office's full costs in providing services to the agency, including costs for items listed in Subsection (c)(2); and

(B) in time for the rate to be reviewed by the legislature, as part of the legislature's review of the office's legislative appropriations request for the biennium, in

determining the office's legislative appropriations for the biennium; and

(2) the anticipated hourly usage of the office's services by the referring agency for each fiscal year of the biennium, as estimated by the office under Subsection (a-1).

(a-1) Before the beginning of each state fiscal biennium, the office shall estimate for each fiscal year of the biennium the anticipated hourly usage for each state agency that referred matters to the office during any of the three most recent state fiscal years for which complete information about the agency's hourly usage is available. The office shall estimate an agency's anticipated hourly usage by evaluating:

(1) the number of hours spent by the office conducting hearings or alternative dispute resolution procedures for the state agency during the three most recent state fiscal years for which complete information about the agency's hourly usage is available; and

(2) any other relevant information, including information provided to the office by the state agency, that suggests an anticipated increase or decrease in the agency's hourly usage of the office's services during the state fiscal biennium, as compared to past usage.

(a-2) The office, for a contract entered into as provided by Subsection (a) under which a quarterly amount is paid by the referring agency to the office, shall:

(1) track the agency's actual hourly usage of the office's services during each fiscal quarter; and

(2) forecast, after each fiscal quarter, the agency's anticipated hourly usage for the rest of the fiscal year.

(a-3) If a state agency did not refer matters to the office during any of the three state fiscal years preceding a state fiscal biennium for which complete information about the agency's hourly usage would have been available and did not provide information to the office sufficient for the office to reasonably and timely estimate anticipated usage and enter into a contract with the agency before the start of the state fiscal biennium, and the costs to the office of conducting hearings and alternative dispute

resolution procedures for the state agency are not paid by appropriations to the office for the state fiscal biennium, the referring agency shall pay the office the costs of conducting hearings or procedures for the agency based on the hourly rate that is set by the office under Subsection (a) and on the agency's actual usage of the office's services.

(b) If the costs to the office of conducting hearings and alternative dispute resolution procedures for a state agency that refers matters to the office are anticipated to be paid by a lump-sum appropriation to the office for a state fiscal biennium, the office shall timely provide to the legislature the information described by Subsection (c).

(c) Each state fiscal biennium, the office as part of its legislative appropriation request shall file:

(1) information, as estimated under Subsection (a-1), related to the anticipated hourly usage of each state agency that refers matters to the office for which the costs of hearings and alternative dispute resolution procedures are anticipated to be paid by appropriations to the office; and

(2) an estimate of its hourly costs in conducting each type of hearing or dispute resolution procedure based on the average cost per hour during the preceding state fiscal year of:

(A) the salaries of its administrative law judges;

(B) the travel expenses, hearing costs, and telephone charges directly related to the conduct of a hearing or procedure; and

(C) the administrative costs of the office, including docketing costs.

(d) This section does not apply to hearings conducted under the administrative license revocation program.

Added by Acts 1999, 76th Leg., ch. 85, Sec. 3, eff. Sept. 1, 2000.  
Amended by Acts 2003, 78th Leg., ch. 1215, Sec. 7, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. [2154](#)), Sec. 3, eff. September 1, 2015.



Acts 2019, 86th Leg., R.S., Ch. 117 (S.B. [1794](#)), Sec. 1, eff. September 1, 2019.

Sec. 2003.025. REQUIRED INFORMATION REGARDING ANTICIPATED HOURLY USAGE. (a) This section applies to a state agency that has entered into a contract with the office for the conduct of hearings and alternative dispute resolution procedures for the agency, including a contract under Section [2003.024](#) or [2003.049](#), during any of the three most recent state fiscal years.

(b) On a date determined by the office before the beginning of each state fiscal biennium, a state agency to which this section applies shall submit to the office and the Legislative Budget Board information regarding the agency's anticipated hourly usage of the office's services for each fiscal year of that biennium.

Added by Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. [2154](#)), Sec. 4, eff. September 1, 2015.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 117 (S.B. [1794](#)), Sec. 2, eff. September 1, 2019.

#### SUBCHAPTER C. STAFF AND ADMINISTRATION

Sec. 2003.041. EMPLOYMENT OF ADMINISTRATIVE LAW JUDGES.

(a) The chief administrative law judge shall employ administrative law judges to conduct hearings for state agencies subject to this chapter.

(b) To be eligible for employment with the office as an administrative law judge, an individual must be licensed to practice law in this state and meet other requirements prescribed by the chief administrative law judge.

(c) An administrative law judge employed by the office is not responsible to or subject to the supervision, direction, or indirect influence of any person other than the chief administrative law judge or a senior or master administrative law judge designated by the chief administrative law judge. In particular, an administrative law judge employed by the office is not responsible to or subject to the supervision, direction, or

indirect influence of an officer, employee, or agent of another state agency who performs investigative, prosecutorial, or advisory functions for the other agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 85, Sec. 4, eff. Sept. 1, 1999.

Sec. 2003.0411. SENIOR AND MASTER ADMINISTRATIVE LAW JUDGES. (a) The chief administrative law judge may appoint senior or master administrative law judges to perform duties assigned by the chief administrative law judge.

(b) To be appointed a senior administrative law judge, a person must have at least six years of general legal experience, must have at least five years of experience presiding over administrative hearings or presiding over hearings as a judge or master of a court, and must meet other requirements as prescribed by the chief administrative law judge.

(c) Except as provided by Section [2003.101](#), to be appointed a master administrative law judge, a person must have at least 10 years of general legal experience, must have at least six years of experience presiding over administrative hearings or presiding over hearings as a judge or master of a court, and must meet other requirements as prescribed by the chief administrative law judge.

Added by Acts 1999, 76th Leg., ch. 85, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 354 (S.B. [242](#)), Sec. 2, eff. June 15, 2007.

Sec. 2003.0412. EX PARTE CONSULTATIONS. (a) Except as provided by Subsection (b), the provisions of Section [2001.061](#) apply in relation to a matter before the office without regard to whether the matter is considered a contested case under Chapter [2001](#).

(b) The provisions of Section [2001.061](#) do not apply to a matter before the office to the extent that the office is conducting an alternative dispute resolution procedure in relation to the matter. The chief administrative law judge shall adopt rules that prescribe the types of alternative dispute resolution procedures in

which ex parte consultations are prohibited and the types of alternative dispute resolution procedures in which ex parte consultations are allowed. For alternative dispute resolution procedures in which ex parte consultations are prohibited, the chief administrative law judge in adopting rules under this subsection shall model the prohibition after Section [2001.061](#) but may vary the extent of the prohibition if necessary to take into account the nature of alternative dispute resolution procedures. Added by Acts 1999, 76th Leg., ch. 85, Sec. 5, eff. Sept. 1, 1999.

Sec. 2003.042. POWERS OF ADMINISTRATIVE LAW JUDGE. (a) An administrative law judge employed by the office or a temporary administrative law judge may:

- (1) administer an oath;
- (2) take testimony;
- (3) rule on a question of evidence;
- (4) issue an order relating to discovery or another hearing or prehearing matter, including an order imposing a sanction;
- (5) issue an order that refers a case to an alternative dispute resolution procedure, determines how the costs of the procedure will be apportioned, and appoints an impartial third party as described by Section [2009.053](#) to facilitate that procedure;
- (6) issue a proposal for decision that includes findings of fact and conclusions of law;
- (7) if expressly authorized by a state agency rule adopted under Section [2001.058](#)(f), make the final decision in a contested case;
- (8) serve as an impartial third party as described by Section [2009.053](#) for a dispute referred by an administrative law judge, unless one of the parties objects to the appointment; and
- (9) serve as an impartial third party as described by Section [2009.053](#) for a dispute referred by a government agency under a contract.

(b) An administrative law judge may not serve as an impartial third party for a dispute that the administrative law

judge refers to an alternative dispute resolution procedure.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 605, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 934, Sec. 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1167, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 19.02(10), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1352, Sec. 8, eff. Sept. 1, 1999.

Sec. 2003.0421. SANCTIONS. (a) An administrative law judge employed by the office or a temporary administrative law judge, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (b) against a party or its representative for:

(1) filing a motion or pleading that is groundless and brought:

(A) in bad faith;

(B) for the purpose of harassment; or

(C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

(2) abuse of the discovery process in seeking, making, or resisting discovery; or

(3) failure to obey an order of the administrative law judge or of the state agency on behalf of which the hearing is being conducted.

(b) A sanction imposed under Subsection (a) may include, as appropriate and justified, issuance of an order:

(1) disallowing further discovery of any kind or of a particular kind by the offending party;

(2) charging all or any part of the expenses of discovery against the offending party or its representatives;

(3) holding that designated facts be considered admitted for purposes of the proceeding;

(4) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;

(5) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of those requests; and

(6) striking pleadings or testimony, or both, in whole or in part.

(c) This section applies to any contested case hearing conducted by the office, except hearings conducted on behalf of the Texas Commission on Environmental Quality or the Public Utility Commission of Texas which are governed by Sections [2003.047](#) and [2003.049](#).

Added by Acts 1997, 75th Leg., ch. 605, Sec. 2, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. [2154](#)), Sec. 5, eff. September 1, 2015.

Sec. 2003.043. TEMPORARY ADMINISTRATIVE LAW JUDGE. (a) The chief administrative law judge may contract with a qualified individual to serve as a temporary administrative law judge if an administrative law judge employed by the office is not available to hear a case within a reasonable time.

(b) The chief administrative law judge shall adopt rules relating to the qualifications of a temporary judge.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2003.044. STAFF. The chief administrative law judge may hire staff as required to perform the powers and duties of the office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2003.045. OVERSIGHT OF ADMINISTRATIVE LAW JUDGES. The chief administrative law judge may designate senior or master administrative law judges to oversee the training, evaluation, discipline, and promotion of administrative law judges employed by the office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 85, Sec. 6, eff. Sept. 1, 1999.

Sec. 2003.0451. TRAINING. (a) The office shall provide at least 30 hours of continuing legal education and judicial training to each new administrative law judge employed by the office who has less than three years of presiding experience. The office shall provide the training required by this subsection during the administrative law judge's first year of employment with the office. The office may provide the training through office personnel or through external sources, including state and local bar associations, the Texas Center for the Judiciary, and the National Judicial College. The training may include the following areas:

- (1) conducting fair and impartial hearings;
- (2) ethics;
- (3) evidence;
- (4) civil trial litigation;
- (5) administrative law;
- (6) managing complex litigation;
- (7) conducting high-volume proceedings;
- (8) judicial writing;
- (9) effective case-flow management;
- (10) alternative dispute resolution methods; and
- (11) other areas that the office considers to be relevant to the work of an administrative law judge.

(b) The office shall provide continuing legal education and advanced judicial training for other administrative law judges employed by the office to the extent that money is available for this purpose.

(c) Subsection (a) does not apply to a temporary administrative law judge.

Added by Acts 1997, 75th Leg., ch. 371, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 85, Sec. 7, eff. Sept. 1, 1999.

Sec. 2003.046. CENTRAL HEARINGS PANEL. (a) A central hearings panel in the office is composed of administrative law judges and senior or master administrative law judges assigned to the panel by the chief administrative law judge.

(b) The chief administrative law judge may create teams or

divisions within the central panel, including an administrative license revocation division, according to the subject matter or types of hearings conducted by the central panel.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 85, Sec. 8, eff. Sept. 1, 1999.

Sec. 2003.047. HEARINGS FOR TEXAS COMMISSION ON ENVIRONMENTAL QUALITY. (a) The office shall perform contested case hearings for the Texas Commission on Environmental Quality.

(b) The office shall conduct hearings relating to contested cases before the commission, other than a hearing conducted by one or more commissioners. The commission by rule may delegate to the office the responsibility to hear any other matter before the commission if consistent with the responsibilities of the office.

(c) The office may contract with qualified individuals to serve as temporary administrative law judges as necessary.

(d) To be eligible to preside at a hearing on behalf of the commission, an administrative law judge, regardless of temporary or permanent status, must be licensed to practice law in this state and have the expertise necessary to conduct hearings regarding technical or other specialized subjects that may come before the commission.

(e) In referring a matter for hearing, the commission shall provide to the administrative law judge a list of disputed issues. The commission shall specify the date by which the administrative law judge is expected to complete the proceeding and provide a proposal for decision to the commission. The administrative law judge may extend the proceeding if the administrative law judge determines that failure to grant an extension would deprive a party of due process or another constitutional right. The administrative law judge shall establish a docket control order designed to complete the proceeding by the date specified by the commission.

(e-1) This subsection applies only to a matter referred under Section 5.556, Water Code. Each issue referred by the commission must have been raised by an affected person in a comment submitted by that affected person in response to a permit application in a timely manner. The list of issues submitted under

Subsection (e) must:

- (1) be detailed and complete; and
- (2) contain either:
  - (A) only factual questions; or
  - (B) mixed questions of fact and law.

(e-2) For a matter referred under Section [5.556](#) or [5.557](#), Water Code, the administrative law judge must complete the proceeding and provide a proposal for decision to the commission not later than the earlier of:

- (1) the 180th day after the date of the preliminary hearing; or
- (2) the date specified by the commission.

(e-3) The deadline specified by Subsection (e-2) or (e-6), as applicable, may be extended:

- (1) by agreement of the parties with the approval of the administrative law judge; or
- (2) by the administrative law judge if the judge determines that failure to extend the deadline would unduly deprive a party of due process or another constitutional right.

(e-4) For the purposes of Subsection (e-3)(2), a political subdivision has the same constitutional rights as an individual.

(e-5) This subsection applies only to a matter referred under Section [5.557](#), Water Code. The administrative law judge may not hold a preliminary hearing until after the executive director has issued a response to public comments under Section [5.555](#), Water Code.

(e-6) For a matter pertaining to an application described by Section [11.122\(b-1\)](#), Water Code, the administrative law judge must complete the proceeding and provide a proposal for decision to the commission not later than the 270th day after the date the matter was referred to the office.

(f) Except as otherwise provided by this subsection, the scope of the hearing is limited to the issues referred by the commission. On the request of a party, the administrative law judge may consider an issue that was not referred by the commission if the administrative law judge determines that:

- (1) the issue is material;



(2) the issue is supported by evidence; and

(3) there are good reasons for the failure to supply available information regarding the issue during the public comment period.

(g) The scope of permissible discovery is limited to:

(1) any matter reasonably calculated to lead to the discovery of admissible evidence regarding any issue referred to the administrative law judge by the commission or that the administrative law judge has agreed to consider; and

(2) the production of documents:

(A) reviewed or relied on in preparing application materials or selecting the site of the proposed facility; or

(B) relating to the ownership of the applicant or the owner or operator of the facility or proposed facility.

(h) The commission by rule shall:

(1) provide for subpoenas and commissions for depositions; and

(2) require that discovery be conducted in accordance with the Texas Rules of Civil Procedure, except that the commission by rule shall determine the level of discovery under Rule 190, Texas Rules of Civil Procedure, appropriate for each type of case considered by the commission, taking into account the nature and complexity of the case.

(i) The office and the commission jointly shall adopt rules providing for certification to the commission of an issue that involves an ultimate finding of compliance with or satisfaction of a statutory standard the determination of which is committed to the discretion or judgment of the commission by law. The rules must address, at a minimum, the issues that are appropriate for certification and the procedure to be used in certifying the issue. Each agency shall publish the jointly adopted rules.

(i-1) In a contested case regarding a permit application referred under Section 5.556 or 5.557, Water Code, the filing with the office of the application, the draft permit prepared by the executive director of the commission, the preliminary decision issued by the executive director, and other sufficient supporting

documentation in the administrative record of the permit application establishes a prima facie demonstration that:

(1) the draft permit meets all state and federal legal and technical requirements; and

(2) a permit, if issued consistent with the draft permit, would protect human health and safety, the environment, and physical property.

(i-2) A party may rebut a demonstration under Subsection (i-1) by presenting evidence that:

(1) relates to a matter referred under Section 5.557, Water Code, or an issue included in a list submitted under Subsection (e) in connection with a matter referred under Section 5.556, Water Code; and

(2) demonstrates that one or more provisions in the draft permit violate a specifically applicable state or federal requirement.

(i-3) If in accordance with Subsection (i-2) a party rebuts a presumption established under Subsection (i-1), the applicant and the executive director may present additional evidence to support the draft permit.

(j) An administrative law judge hearing a case on behalf of the commission, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (k) against a party or its representative for:

(1) filing a motion or pleading that is groundless and brought:

(A) in bad faith;

(B) for the purpose of harassment; or

(C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

(2) abuse of the discovery process in seeking, making, or resisting discovery; or

(3) failure to obey an order of the administrative law judge or the commission.

(k) A sanction imposed under Subsection (j) may include, as

appropriate and justified, issuance of an order:

(1) disallowing further discovery of any kind or of a particular kind by the offending party;

(2) charging all or any part of the expenses of discovery against the offending party or its representatives;

(3) holding that designated facts be considered admitted for purposes of the proceeding;

(4) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;

(5) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of those requests; and

(6) striking pleadings or testimony, or both, in whole or in part.

(1) After hearing evidence and receiving legal argument, an administrative law judge shall make findings of fact, conclusions of law, and any ultimate findings required by statute, all of which shall be separately stated. The administrative law judge shall make a proposal for decision to the commission and shall serve the proposal for decision on all parties. An opportunity shall be given to each party to file exceptions to the proposal for decision and briefs related to the issues addressed in the proposal for decision. The commission shall consider and act on the proposal for decision.

(m) Except as provided in Section [361.0832](#), Health and Safety Code, the commission shall consider the proposal for decision prepared by the administrative law judge, the exceptions of the parties, and the briefs and argument of the parties. The commission may amend the proposal for decision, including any finding of fact, but any such amendment thereto and order shall be based solely on the record made before the administrative law judge. Any such amendment by the commission shall be accompanied by an explanation of the basis of the amendment. The commission may also refer the matter back to the administrative law judge to reconsider any findings and conclusions set forth in the proposal for decision or take additional evidence or to make additional

findings of fact or conclusions of law. The commission shall serve a copy of the commission's order, including its finding of facts and conclusions of law, on each party.

(n) The provisions of Chapter [2001](#) shall apply to contested case hearings for the commission to the extent not inconsistent with this section.

(o) An administrative law judge hearing a case on behalf of the commission may not, without the agreement of all parties, issue an order referring the case to an alternative dispute resolution procedure if the commission has already conducted an unsuccessful alternative dispute resolution procedure. If the commission has not already conducted an alternative dispute resolution procedure, the administrative law judge shall consider the commission's recommendation in determining whether to issue an order referring the case to the procedure.

Added by Acts 1995, 74th Leg., ch. 106, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 934, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1350, Sec. 6, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 116 (S.B. [709](#)), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. [2154](#)), Sec. 6, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. [2154](#)), Sec. 7, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 429 (S.B. [1430](#)), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1097 (H.B. [3735](#)), Sec. 6, eff. September 1, 2017.

Sec. 2003.049. UTILITY HEARINGS. (a) The office shall perform contested case hearings for the Public Utility Commission of Texas as prescribed by the Public Utility Regulatory Act of 1995 and other applicable law.

(b) The office shall conduct hearings relating to contested cases before the commission, other than a hearing conducted by one or more commissioners. The commission by rule may delegate the

responsibility to hear any other matter before the commission if consistent with the duties and responsibilities of the office.

(c) The office may contract with qualified individuals to serve as temporary administrative law judges as necessary.

(d) To be eligible to preside at a hearing, an administrative law judge, regardless of temporary or permanent status, must be licensed to practice law in this state and have not less than five years of general experience or three years of experience in utility regulatory law.

(e) At the time the office receives jurisdiction of a proceeding, the commission shall provide to the administrative law judge a list of issues or areas that must be addressed. In addition, the commission may identify and provide to the administrative law judge at any time additional issues or areas that must be addressed.

(f) The office and the commission shall jointly adopt rules providing for certification to the commission of an issue that involves an ultimate finding of compliance with or satisfaction of a statutory standard the determination of which is committed to the discretion or judgment of the commission by law. The rules must address, at a minimum, the issues that are appropriate for certification and the procedure to be used in certifying the issue. Each agency shall publish the jointly adopted rules.

(g) Notwithstanding Section [2001.058](#), the commission may change a finding of fact or conclusion of law made by the administrative law judge or vacate or modify an order issued by the administrative law judge only if the commission:

(1) determines that the administrative law judge:

(A) did not properly apply or interpret applicable law, commission rules or policies, or prior administrative decisions; or

(B) issued a finding of fact that is not supported by a preponderance of the evidence; or

(2) determines that a commission policy or a prior administrative decision on which the administrative law judge relied is incorrect or should be changed.

(h) The commission shall state in writing the specific

reason and legal basis for its determination under Subsection (g).

(i) An administrative law judge, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (j) against a party or its representative for:

(1) filing a motion or pleading that is groundless and brought:

(A) in bad faith;

(B) for the purpose of harassment; or

(C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

(2) abuse of the discovery process in seeking, making, or resisting discovery; or

(3) failure to obey an order of the administrative law judge or the commission.

(j) A sanction imposed under Subsection (i) may include, as appropriate and justified, issuance of an order:

(1) disallowing further discovery of any kind or of a particular kind by the offending party;

(2) charging all or any part of the expenses of discovery against the offending party or its representative;

(3) holding that designated facts be deemed admitted for purposes of the proceeding;

(4) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;

(5) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of such requests;

(6) punishing the offending party or its representative for contempt to the same extent as a district court;

(7) requiring the offending party or its representative to pay, at the time ordered by the administrative law judge, the reasonable expenses, including attorney's fees, incurred by other parties because of the sanctionable behavior; and

(8) striking pleadings or testimony, or both, in whole or in part, or staying further proceedings until the order is obeyed.

(k) Repealed by Acts 2015, 84th Leg., R.S., Ch. 228 , Sec. 26(1), eff. September 1, 2015.

(l) Repealed by Acts 2015, 84th Leg., R.S., Ch. 228 , Sec. 26(1), eff. September 1, 2015.

Added by Acts 1995, 74th Leg., ch. 765, Sec. 1.35, eff. Sept. 1, 1995. Renumbered from Government Code Sec. 2003.047 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(49), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 85, Sec. 10, eff. Sept. 1, 2000.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. [2154](#)), Sec. 9, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. [2154](#)), Sec. 10, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. [2154](#)), Sec. 26(1), eff. September 1, 2015.

Sec. 2003.050. PROCEDURAL RULES. (a) The chief administrative law judge shall adopt rules that govern the procedures, including the discovery procedures, that relate to a hearing conducted by the office.

(b) Notwithstanding other law, the procedural rules of the state agency on behalf of which the hearing is conducted govern procedural matters that relate to the hearing only to the extent that the chief administrative law judge's rules adopt the agency's procedural rules by reference.

(c) The rules of the office regarding the participation of a witness by telephone must include procedures to verify the identity of the witness who is to appear by telephone.

Added by Acts 1997, 75th Leg., ch. 605, Sec. 3, eff. Jan. 1, 1998. Amended by Acts 2003, 78th Leg., ch. 1215, Sec. 8, eff. Sept. 1, 2003.

Sec. 2003.051. ROLE OF REFERRING AGENCY. (a) Except in connection with interim appeals of orders or questions certified to

an agency by an administrative law judge, as permitted by law, a state agency that has referred a matter to the office in which the office will conduct a hearing may not take any adjudicative action relating to the matter until the office has issued its proposal for decision or otherwise concluded its involvement in the matter. The state agency may exercise its advocacy rights in the matter before the office in the same manner as any other party.

(b) If the office issues a proposal for decision in a matter referred to the office by a state agency, the referring agency shall send to the office an electronic copy of the agency's final decision or order in the matter.

Added by Acts 1999, 76th Leg., ch. 85, Sec. 11, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. [2154](#)), Sec. 11, eff. September 1, 2015.

Sec. 2003.052. HANDLING OF COMPLAINTS. (a) The office shall maintain a file on each written complaint filed with the office. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the office;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the office closed the file without taking action other than to investigate the complaint.

(b) The office shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the office's policies and procedures relating to complaint investigation and resolution.

(c) The office, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover



investigation.

Added by Acts 2003, 78th Leg., ch. 1215, Sec. 9, eff. Sept. 1, 2003.

Sec. 2003.053. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The chief administrative law judge or the chief administrative law judge's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the office to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the office's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

(3) be filed with the governor's office.

Added by Acts 2003, 78th Leg., ch. 1215, Sec. 9, eff. Sept. 1, 2003.

Sec. 2003.055. EFFECTIVE USE OF TECHNOLOGY. The chief administrative law judge shall develop and implement a policy requiring the chief administrative law judge and office employees to research and propose appropriate technological solutions to improve the office's ability to perform its functions. The technological solutions must:

(1) ensure that the public is able to easily find information about the office on the Internet;

(2) ensure that persons who want to use the office's services are able to:

(A) interact with the office through the Internet; and

(B) access any service that can be provided effectively through the Internet; and

(3) be cost-effective and developed through the office's planning processes.

Added by Acts 2003, 78th Leg., ch. 1215, Sec. 9, eff. Sept. 1, 2003.

Sec. 2003.056. ALTERNATIVE DISPUTE RESOLUTION POLICY. The chief administrative law judge shall develop and implement a policy to encourage the use of alternative dispute resolution procedures where appropriate to assist in the internal and external resolution of disputes within the office's jurisdiction.

Added by Acts 2003, 78th Leg., ch. 1215, Sec. 9, eff. Sept. 1, 2003.

Sec. 2003.057. HEARING TRANSLATOR. If a translator is requested for all or part of a hearing conducted by the office, the office shall provide an appropriate translator for that purpose.

Added by Acts 2003, 78th Leg., ch. 1215, Sec. 10, eff. Sept. 1, 2003.

#### SUBCHAPTER D. TAX HEARINGS

Sec. 2003.101. TAX HEARINGS. (a) The office shall conduct hearings relating to contested cases involving the collection, receipt, administration, and enforcement of taxes, fees, and other amounts as prescribed by Section [111.00455](#), Tax Code.

(b) An administrative law judge who presides at a tax hearing is classified as a "master administrative law judge II." Section [2003.0411](#) does not apply to this section.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 228 , Sec. 26(2), eff. September 1, 2015.

(d) To be eligible to preside at a tax hearing, an administrative law judge, including a temporary administrative law judge contracted with under Section [2003.043](#), must:

- (1) be a United States citizen;
- (2) be an attorney in good standing with the State Bar of Texas;
- (3) have been licensed in this state to practice law

for at least seven years; and

(4) have substantial experience in tax cases in making the record suitable for administrative review.

(e) Notwithstanding Section 2001.058, the comptroller may change a finding of fact or conclusion of law made by the administrative law judge or vacate or modify an order issued by the administrative law judge only if the comptroller:

(1) determines that the administrative law judge:

(A) did not properly apply or interpret applicable law, then existing comptroller rules or policies, or prior administrative decisions; or

(B) issued a finding of fact that is not supported by a preponderance of the evidence; or

(2) determines that a comptroller policy or a prior administrative decision on which the administrative law judge relied is incorrect.

(f) The comptroller shall state in writing the specific reason and legal basis for a determination under Subsection (e).

(g) An administrative law judge, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (h) against a party or its representative for:

(1) filing of a motion or pleading that is groundless and brought:

(A) in bad faith;

(B) for the purpose of harassment; or

(C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

(2) abuse of the discovery process in seeking, making, or resisting discovery; or

(3) failure to obey an order of the administrative law judge or the comptroller.

(h) A sanction imposed under Subsection (g) may include, as appropriate and justified, issuance of an order:

(1) disallowing further discovery of any kind or of a particular kind by the offending party;

(2) holding that designated facts be deemed admitted for purposes of the proceeding;

(3) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;

(4) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of such requests; and

(5) striking pleadings or testimony, or both, wholly or partly, or staying further proceedings until the order is obeyed.

(i) For each hearing conducted under this section, an administrative law judge shall issue a proposal for decision that includes findings of fact and conclusions of law. In addition, the proposal for decision must include the legal reasoning and other analysis considered by the judge in reaching the decision. Each finding of fact or conclusion of law made by the judge must be:

(1) independent and impartial; and

(2) based on state law and the evidence presented at the hearing.

(j) The comptroller may not attempt to influence the findings of fact or the administrative law judge's application of the law except by evidence and legal argument. An administrative law judge conducting a hearing under this subchapter may not directly or indirectly communicate in connection with an issue of fact or law with a party or its representative, except:

(1) on notice and opportunity for each party to participate; or

(2) to ask questions that involve ministerial, administrative, or procedural matters that do not address the substance of the issues or positions taken in the case.

(k) Appearances in hearings conducted for the comptroller by the office may be by:

(1) the taxpayer;

(2) an attorney licensed to practice law in this state;

(3) a certified public accountant; or

(4) any other person designated by the taxpayer who is not otherwise prohibited from appearing in the hearing.

(1) The comptroller is represented by an authorized representative in all hearings conducted for the comptroller by the office.

Added by Acts 2007, 80th Leg., R.S., Ch. 354 (S.B. 242), Sec. 3, eff. June 15, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 13, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 14, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 26(2), eff. September 1, 2015.

Sec. 2003.103. TIMELINESS OF HEARINGS. (a) The office shall conduct all hearings under this subchapter in a timely manner.

(b) The office shall use every reasonable means to expedite a case under this subchapter when the comptroller requests that the office expedite the case.

(c) This section is not intended to impair the independence of the office in conducting a hearing under this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 354 (S.B. 242), Sec. 3, eff. June 15, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 15, eff. September 1, 2015.

Sec. 2003.104. CONFIDENTIALITY OF TAX HEARING INFORMATION.

(a) The office shall keep information that identifies a taxpayer who participates in a case under this subchapter confidential, including the taxpayer's name and social security number.

(b) The provision of information to the office that is confidential under any law, including Section 111.006, 151.027, or 171.206, Tax Code, does not affect the confidentiality of the information, and the office shall maintain that confidentiality.

(c) A hearing conducted under this subchapter is confidential and not open to the public.

Added by Acts 2007, 80th Leg., R.S., Ch. 354 (S.B. 242), Sec. 3, eff. June 15, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 16, eff. September 1, 2015.

Sec. 2003.108. PENDING CASE STATUS REVIEW. At least quarterly, the office shall review with the comptroller and appropriate staff of the office the status of pending cases under this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 354 (S.B. 242), Sec. 3, eff. June 15, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.10, eff. September 1, 2019.

Sec. 2003.109. RULES; EARLY REFERRAL. (a) The comptroller may adopt rules to provide for the referral to the office of issues related to a case described by Section 111.00455, Tax Code, to resolve a procedural or other preliminary dispute between the comptroller and a party.

(b) After a referral under this section, the office shall docket the case and assign an administrative law judge under Section 2003.101. If additional proceedings are required after the consideration of the procedural or other preliminary dispute, the office shall appoint the same administrative law judge to hear the case.

Added by Acts 2007, 80th Leg., R.S., Ch. 354 (S.B. 242), Sec. 3, eff. June 15, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 18, eff. September 1, 2015.

## SUBCHAPTER Z. APPEALS FROM APPRAISAL REVIEW BOARD DETERMINATIONS

Sec. 2003.901. APPEALS FROM APPRAISAL REVIEW BOARD DETERMINATIONS. As an alternative to filing an appeal under Section 42.01, Tax Code, a property owner may appeal to the office an appraisal review board order determining a protest concerning the appraised or market value of property brought under Section 41.41(a)(1) or (2), Tax Code, if the appraised or market value, as applicable, of the property that was the subject of the protest, as determined by the board order, is more than \$1 million.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 851 (H.B. 316), Sec. 2, eff. January 1, 2014.

Sec. 2003.902. PARTICIPATING OFFICES AND REMOTE HEARING SITES. The office shall hear appeals filed under this subchapter only in:

- (1) Amarillo;
- (2) Austin;
- (3) Beaumont;
- (4) Corpus Christi;
- (5) El Paso;
- (6) Fort Worth;
- (7) Houston;
- (8) Lubbock;
- (9) Lufkin;
- (10) McAllen;
- (11) Midland;
- (12) San Antonio;
- (13) Tyler; and
- (14) Wichita Falls.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1293 (H.B. 2203), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 851 (H.B. 316), Sec. 3, eff. January 1, 2014.

Sec. 2003.903. RULES. (a) The office has rulemaking authority to implement this subchapter.

(b) The office has specific rulemaking authority to implement those rules necessary to expeditiously determine appeals to the office, based on the number of appeals filed and the resources available to the office.

(c) The office may adopt rules that include the procedural provisions of Chapter 41, Tax Code, applicable to a hearing before an appraisal review board.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.

Sec. 2003.904. APPLICABILITY TO REAL AND PERSONAL PROPERTY. This subchapter applies only to an appeal of a determination of the appraised or market value made by an appraisal review board in connection with real or personal property, other than industrial property.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 851 (H.B. 316), Sec. 4, eff. January 1, 2014.

Sec. 2003.905. EDUCATION AND TRAINING OF ADMINISTRATIVE LAW JUDGES. (a) An administrative law judge assigned to hear an appeal brought under this subchapter must have knowledge of:

(1) each of the appraisal methods a chief appraiser may use to determine the appraised value or the market value of property under Chapter 23, Tax Code; and

(2) the proper method for determining an appeal of a protest, including a protest brought on the ground of unequal appraisal.

(b) An administrative law judge is entitled to attend one or more training and education courses under Sections 5.04 and 5.041,



Tax Code, to receive a copy of the materials used in a course, or both, without charge.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. [3612](#)), Sec. 1, eff. January 1, 2010.

Sec. 2003.906. NOTICE OF APPEAL TO OFFICE; DEPOSIT. (a) To appeal an appraisal review board order to the office under this subchapter, a property owner must file with the chief appraiser of the appraisal district:

(1) a completed notice of appeal to the office in the form prescribed by Section [2003.907](#); and

(2) a deposit in the amount of \$1,500, made payable to the office.

(a-1) The notice of appeal required under Subsection (a)(1) must be filed with the chief appraiser not later than the 30th day after the date the property owner receives notice of the order.

(a-2) The deposit required under Subsection (a)(2) must be filed with the chief appraiser not later than the 90th day after the date the property owner receives notice of the order. The deposit is refundable:

(1) less the filing fee if the property owner and the appraisal district settle before the appeal is heard; or

(2) less the filing fee and the office's costs if the property owner and the appraisal district settle after the appeal is heard.

(a-3) If the property owner fails to pay the deposit as required under Subsection (a-2):

(1) the office shall dismiss the property owner's appeal; and

(2) the property owner is not entitled to file an appeal under this subchapter in any subsequent tax year.

(b) As soon as practicable after receipt of a notice of appeal, the chief appraiser for the appraisal district shall:

(1) indicate, where appropriate, those entries in the records that are subject to the appeal;

(2) submit the notice of appeal and deposit to the office; and

(3) request the appointment of a qualified administrative law judge to hear the appeal.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1293 (H.B. 2203), Sec. 2, eff. June 17, 2011.

Sec. 2003.907. CONTENTS OF NOTICE OF APPEAL. The chief administrative law judge by rule shall prescribe the form of a notice of appeal under this subchapter. The form must require the property owner to provide:

(1) a copy of the order of the appraisal review board;

(2) a brief statement that explains the basis for the property owner's appeal of the order; and

(3) a statement of the property owner's opinion of the appraised or market value, as applicable, of the property that is the subject of the appeal.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.

Sec. 2003.908. NOTICE TO PROPERTY OWNERS. An appraisal review board that delivers notice of issuance of an order described by Section 2003.901 of this code pertaining to property described by Section 2003.904 of this code and a copy of the order to a property owner as required by Section 41.47, Tax Code, shall include with the notice and copy:

(1) a notice of the property owner's rights under this subchapter; and

(2) a copy of the notice of appeal prescribed by Section 2003.907.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 851 (H.B. 316), Sec. 5, eff. January 1, 2014.

Sec. 2003.909. DESIGNATION OF ADMINISTRATIVE LAW JUDGE; LOCATION OF HEARING. (a) As soon as practicable after the office receives a notice of appeal and the filing fee, the office shall designate an administrative law judge to hear the appeal.

(b) As soon as practicable after the administrative law judge is designated, the administrative law judge shall set the date, time, and place of the hearing on the appeal.

(b-1) If all or part of the property that is the subject of the appeal is located in a municipality listed in Section 2003.902, the administrative law judge shall set the hearing in that municipality. If no part of the property that is the subject of the appeal is located in a municipality listed in Section 2003.902, the administrative law judge shall set the hearing in the listed municipality that is nearest to the subject property.

(c) The hearing must be held in a building or facility that is owned or partly or entirely leased by the office, except that if the office does not own or lease a building or facility in the municipality in which the hearing is required to be held, the hearing may be held in any public or privately owned building or facility in that municipality, preferably a building or facility in which the office regularly conducts business. The hearing may not be held in a building or facility that is owned, leased, or under the control of an appraisal district.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. 3612), Sec. 1, eff. January 1, 2010.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 851 (H.B. 316), Sec. 6, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 851 (H.B. 316), Sec. 7, eff. January 1, 2014.

Sec. 2003.910. SCOPE OF APPEAL; HEARING. (a) An appeal is by trial de novo. The administrative law judge may not admit into evidence the fact of previous action by the appraisal review board, except as otherwise provided by this subchapter.

(b) Chapter 2001 and the Texas Rules of Evidence do not apply to a hearing under this subchapter. Prehearing discovery is

limited to the exchange of documents the parties will rely on during the hearing. Any expert witness testimony must be reduced to writing and included in the exchange of documents.

(c) Any relevant evidence is admissible, subject to the imposition of reasonable time limits and the parties' compliance with reasonable procedural requirements imposed by the administrative law judge, including a schedule for the prehearing exchange of documents to be relied on.

(d) An administrative law judge may consider factors such as the hearsay nature of testimony, the qualifications of witnesses, and other restrictions on the admissibility of evidence under the Texas Rules of Evidence in assessing the weight to be given to the evidence admitted.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. [3612](#)), Sec. 1, eff. January 1, 2010.

Sec. 2003.911. REPRESENTATION OF PARTIES. (a) A property owner may be represented at the hearing by:

- (1) the property owner;
- (2) an attorney who is licensed in this state;
- (3) a certified public accountant;
- (4) a registered property tax consultant; or
- (5) any other person who is not otherwise prohibited from appearing in a hearing held by the office.

(b) The appraisal district may be represented by the chief appraiser or a person designated by the chief appraiser.

(c) An authorized representative of a party may appear at the hearing to offer evidence, argument, or both, in the same manner as provided by Section [41.45](#), Tax Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. [3612](#)), Sec. 1, eff. January 1, 2010.

Sec. 2003.912. DETERMINATION OF ADMINISTRATIVE LAW JUDGE.

(a) As soon as practicable, but not later than the 30th day after the date the hearing is concluded, the administrative law judge shall issue a determination and send a copy to the property owner and the chief appraiser.

(b) The determination:

(1) must include a determination of the appraised or market value, as applicable, of the property that is the subject of the appeal;

(2) must contain a brief analysis of the administrative law judge's rationale for and set out the key findings in support of the determination but is not required to contain a detailed discussion of the evidence admitted or the contentions of the parties;

(3) may include any remedy or relief a court may order under Chapter 42, Tax Code, in an appeal relating to the appraised or market value of property, including an award of attorney's fees under Section 42.29, Tax Code; and

(4) shall specify whether the appraisal district or the property owner is required to pay the costs of the hearing and the amount of those costs.

(c) If the administrative law judge determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the request for the hearing submitted by the property owner than the value determined by the appraisal review board:

(1) the office, on receipt of a copy of the determination, shall refund the property owner's filing fee;

(2) the appraisal district, on receipt of a copy of the determination, shall pay the costs of the appeal as specified in the determination; and

(3) the chief appraiser shall correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the administrative law judge's determination.

(d) If the administrative law judge determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is not nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the property owner's request for a hearing than the value determined by the appraisal review board:

(1) the office, on receipt of a copy of the determination, shall retain the property owner's filing fee;

(2) the chief appraiser shall correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the administrative law judge's determination if the value as determined by the administrative law judge is less than the value as determined by the appraisal review board; and

(3) the property owner shall pay the difference between the costs of the appeal as specified in the determination and the property owner's filing fee.

(e) Notwithstanding Subsection (a), the office by rule may implement a process under which:

(1) the administrative law judge issues a proposal for determination to the parties;

(2) the parties are given a reasonable period in which to make written objections to the proposal; and

(3) the administrative law judge is authorized to take into account those written objections before issuing a final determination.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. [3612](#)), Sec. 1, eff. January 1, 2010.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1293 (H.B. [2203](#)), Sec. 3, eff. June 17, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. [850](#), 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2003.913. PAYMENT OF TAXES PENDING APPEAL. (a) The pendency of an appeal to the office does not affect the delinquency date for the taxes on the property subject to the appeal. A property owner who appeals an appraisal review board order to the office shall pay taxes on the property subject to the appeal in an amount equal to the amount of taxes due on the portion of the taxable value of the property that is not in dispute. If the final

determination of the appeal decreases the property owner's tax liability to an amount less than the amount of taxes paid, each taxing unit shall refund to the property owner the difference between the amount of taxes paid and the amount of taxes for which the property owner is liable.

(b) A property owner may not appeal to the office if the taxes on the property subject to the appeal are delinquent. An administrative law judge who determines that the taxes on the property subject to an appeal are delinquent shall dismiss the pending appeal with prejudice. If an appeal is dismissed under this subsection, the office shall retain the property owner's filing fee.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. [3612](#)), Sec. 1, eff. January 1, 2010.

Sec. 2003.914. EFFECT ON RIGHT TO JUDICIAL APPEAL. An appeal to the office under this subchapter is an election of remedies and an alternative to bringing an appeal under Section [42.01](#), Tax Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1180 (H.B. [3612](#)), Sec. 1, eff. January 1, 2010.