



**General Assembly of the Commonwealth of Pennsylvania
JOINT STATE GOVERNMENT COMMISSION**

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SUMMARY –

Reforming the Administrative Law of Pennsylvania

House Resolution 247 of 2011 directed the Joint State Government Commission to study and make recommendations concerning the practice of administrative law before the Commonwealth's hearing boards. The report discusses the current state of Pennsylvania's administrative law and presents draft legislation largely modeled after the Uniform Law Commission's Revised Model State Administrative Procedure Act, extensively revised by Commission staff under the guidance of the volunteer working group that the Commission staff assembled to assist with this project.

Findings:

At 16 sections covering six pages of the Consolidated Statutes, the current Administrative Agency Law is clearly inadequate to the needs of a populous, industrialized state like Pennsylvania. It provides little guidance on such key issues as emergency adjudications, ex parte (one-sided) communications, and public access to hearings and adjudications.

Experts on administrative law are unanimous in favoring a central hearing panel that performs the administrative hearings for all agencies in place of Pennsylvania's traditional system, where each agency does its own hearings. The Office of General Counsel created a Hearing Officer Program that agencies can choose to utilize, and the success of that program bodes well for the feasibility of a central panel system.

Recommendations:

The General Assembly should enact a modern and comprehensive statute that will set forth the procedure for administrative proceedings that will afford the public Due Process. To ensure reasonable impartiality, the legislation should create an independent Office of Administrative Hearings to conduct the administrative hearings for the agencies in all cases where agency management does not conduct the hearing itself. The report includes a proposed Administrative Procedure Act that supplies these policy requirements.

Under this APA, the Office is managed by a Chief Administrative Law Judge with the power to appoint and supervise a staff of ALJs. An independent office will ensure that the adjudicator both is impartial in fact and appears to be impartial, which is difficult when the adjudicator is an employee of an agency that is at the same time a party to the case. Provisions are included that respond to the essential concerns of administrative law, while ensuring agency control of its own policy.

The full report is also available on our website: <http://jsg.legis.state.pa.us/>