

# Missouri Revised Statutes

## Chapter 621 Administrative Hearing Commission

- [←Chapter: 620](#)
- [Chapter: 622→](#) August 28, 2015

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### **Administrative hearing commission, number of commissioners--qualifications, appointment, terms, compensation.**

[621.015](#). The "Administrative Hearing Commission" is assigned to the office of administration. It shall consist of no more than five commissioners. The commissioners shall be appointed by the governor with the advice and consent of the senate. The term of each commissioner shall be for six years and until his successor is appointed, qualified and sworn. The commissioners shall be attorneys at law admitted to practice before the supreme court of Missouri, but shall not practice law during their term of office. Each commissioner shall receive annual compensation of fifty-one thousand dollars plus any salary adjustment provided pursuant to section [105.005](#). Each commissioner shall also be entitled to actual and necessary expenses in the performance of his duties. The office of the administrative hearing commission shall be located in the City of Jefferson and it may employ necessary clerical assistance, compensation and expenses of the commissioners to be paid from appropriations made for that purpose.

(L. 1965 p. 277 § 1, A.L. 1977 H.B. 841, A.L. 1978 S.B. 661, A.L. 1984 S.B. 528, A.L. 1986 S.B. 426, A.L. 2005 H.B. 824, A.L. 2010 H.B. 1868)

Revisor's note: Salary adjustment index is printed, as required by § [105.005](#), in Appendix E.

### **Commissioners to report to governor, when, content--compensation for extra duties.**

[621.017](#). 1. Each administrative hearing commissioner serving on August 13, 1984, shall prepare and submit to the governor a report on suggested improvements for the administrative procedure law. Such report shall be submitted annually by each commissioner until the expiration of the term that he is serving on August 13, 1984.

2. For the performance of the duties imposed under the provisions of subsection 1 of this section, each commissioner shall receive a sum that when added to the other compensation paid to that commissioner prior to August 13, 1984, will equal the sum provided by adding together the compensation specified by sections [621.015](#) and [621.055](#). This sum shall be paid in the same manner as other compensation is paid.

(L. 1984 S.B. 528 § 161.253)

Revisor's note: Salary adjustment index is printed, as required by § [105.005](#), in Appendix E.

**Acting commissioner, when appointed--compensation.**

[621.025](#). If a commissioner during his term of office becomes temporarily incapacitated by illness or otherwise to perform the duties of his office, the governor shall appoint some person to perform the duties of the office during the incapacity of the commissioner. The person appointed shall have all the powers and duties of the office and shall possess all of the qualifications of the office except that he may continue in the private practice of law but shall not practice during this period before any agency mentioned in section [621.045](#) nor in connection with matters with which any of the agencies are involved. He shall receive the remuneration provided for the office of commissioner during the time which he serves.

(L. 1965 p. 277 § 2)

**Individual commissioners to have authority of entire commission--exceptions--procedure before commission.**

[621.035](#). Each administrative hearing commissioner shall have authority to exercise all powers granted to the administrative hearing commission without the concurrence of any other commissioner, except with respect to the rulemaking powers, in which all commissioners must concur. The method of assignment of petitions, appeals or other cases may be determined by rule or other agreement between the commissioners. Formal procedural requirements shall not be required of any complaint filed pursuant to any provision of law relating to the administrative hearing commission, and substantial compliance with the requirements of the law relating to the administrative hearing commission shall be deemed sufficient; however, all testimony in any hearing shall be under oath and an administrative hearing commissioner may administer oaths or affirmations to any witness. It shall not be necessary for a person to be represented by counsel in order to institute any such proceeding, and the administrative hearing commission shall adopt rules and procedures which shall facilitate the filing and processing of such complaints without formal representation. The administrative hearing commission may stay or suspend any action of an administrative agency pending the commission's findings and determination in the cause. The administrative hearing commission may condition the issuance of such order upon the posting of bond or other security in such amount as the commission deems necessary to adequately protect the public interest.

(L. 1978 S.B. 661)

**Administrative law judges of the division of motor carrier and railroad safety shall be commissioners of the administrative hearing commission--jurisdiction of administrative hearing commission.**

[621.040](#). Notwithstanding the provisions of section\* [621.015](#), to the contrary, after July 11, 2002, all individuals authorized on that date as administrative law judges of the division of motor

carrier and railroad safety within the department of economic development shall be commissioners of the administrative hearing commission within the office of administration, and shall serve out the unexpired remainder of their terms as commissioners. They shall have the same powers, duties, functions, and compensation as provided by law for the other commissioners, and after the expiration of their terms they may be reappointed in the same manner as other commissioners. The administrative hearing commission shall have jurisdiction to conduct hearings, make findings of fact and conclusions of law, and issue orders in all applicable cases relating to motor carrier and railroad regulation transferred to the highways and transportation commission pursuant to this section and sections [104.805](#), [226.008](#), [389.005](#), and [389.610](#), except that, notwithstanding any provision of law to the contrary, the highways and transportation commission may issue final agency orders without involvement of the administrative hearing commission in relation to:

(1) Uncontested motor carrier cases, and other uncontested motor carrier matters, or in which all parties have waived a hearing in writing; and

(2) Approval of settlement agreements or issuance of consent orders in motor carrier or railroad enforcement cases, if all parties have consented in writing to the issuance of the commissioner's order.

(L. 2002 S.B. 1202)

Effective 7-11-02

\*Word "chapter" appears in original rolls.

**Commission to conduct hearings, make determinations--boards included--settlement agreements--default decision, when.**

[621.045](#). 1. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in those cases when, under the law, a license issued by any of the following agencies may be revoked or suspended or when the licensee may be placed on probation or when an agency refuses to permit an applicant to be examined upon his or her qualifications or refuses to issue or renew a license of an applicant who has passed an examination for licensure or who possesses the qualifications for licensure without examination:

Missouri State Board of Accountancy

Missouri State Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects

Board of Barber Examiners

Board of Cosmetology

Board of Chiropody and Podiatry

Board of Chiropractic Examiners

Missouri Dental Board

Board of Embalmers and Funeral Directors

Board of Registration for the Healing Arts

Board of Nursing

Board of Optometry

Board of Pharmacy

Missouri Real Estate Commission

Missouri Veterinary Medical Board

Supervisor of Liquor Control

Department of Health and Senior Services

Department of Insurance, Financial Institutions and Professional Registration

Department of Mental Health

Board of Private Investigator Examiners.

2. If in the future there are created by law any new or additional administrative agencies which have the power to issue, revoke, suspend, or place on probation any license, then those agencies are under the provisions of this law.

3. The administrative hearing commission is authorized to conduct hearings and make findings of fact and conclusions of law in those cases brought by the Missouri state board for architects, professional engineers, professional land surveyors and landscape architects against unlicensed persons under section [327.076](#).

4. Notwithstanding any other provision of this section to the contrary, after August 28, 1995, in order to encourage settlement of disputes between any agency described in subsection 1 or 2 of this section and its licensees, any such agency shall:

(1) Provide the licensee with a written description of the specific conduct for which discipline is sought and a citation to the law and rules allegedly violated, together with copies of any documents which are the basis thereof and the agency's initial settlement offer, or file a contested case against the licensee;

(2) If no contested case has been filed against the licensee, allow the licensee at least sixty days, from the date of mailing, to consider the agency's initial settlement offer and to contact the agency to discuss the terms of such settlement offer;

(3) If no contested case has been filed against the licensee, advise the licensee that the licensee may, either at the time the settlement agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the administrative hearing commission for determination that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee; and

(4) In any contact under this subsection by the agency or its counsel with a licensee who is not represented by counsel, advise the licensee that the licensee has the right to consult an attorney at the licensee's own expense.

5. If the licensee desires review by the administrative hearing commission under subdivision (3) of subsection 4 of this section at any time prior to the settlement becoming final, the licensee may rescind and withdraw from the settlement and any admissions of fact or law in the agreement shall be deemed withdrawn and not admissible for any purposes under the law against the licensee. Any settlement submitted to the administrative hearing commission shall not be effective and final unless and until findings of fact and conclusions of law are entered by the administrative hearing commission that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee.

6. When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been given under sections [536.067](#) and [621.100](#) upon a properly pled writing filed to initiate the contested case under this chapter or chapter 536, a default decision shall be entered against the licensee without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause" includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.

(L. 1965 p. 277 §§ 3, 12, A.L. 1978 S.B. 661, A.L. 1995 S.B. 3, A.L. 2005 S.B. 177, A.L. 2007 H.B. 780 merged with S.B. 308, A.L. 2011 H.B. 265)

#### CROSS REFERENCE:

Workers' compensation cases, this section not deemed to govern discovery between parties, [287.811](#)

#### **Administrative hearing commission to hear appeals from director of revenue--procedures--interest--burden of proof.**

[621.050](#). 1. Except as otherwise provided by law, any person or entity shall have the right to appeal to the administrative hearing commission from any finding, order, decision, assessment or additional assessment made by the director of revenue. Any person or entity who is a party to such a dispute shall be entitled to a hearing before the administrative hearing commission by the filing of a petition with the administrative hearing commission within thirty days after the decision of the director is placed in the United States mail or within thirty days after the decision is delivered, whichever is earlier. The decision of the director of revenue shall contain a notice of the right of appeal in substantially the following language:

If you were adversely affected by this decision, you may appeal to the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission.

2. The procedures applicable to the processing of such hearings and determinations shall be those established by chapter 536; provided that, any provision of law to the contrary notwithstanding, in any action before the commission arising under chapter 144, a seller may prove that a sale is exempt from taxation under such chapter in accordance with proof admissible under the applicable rules of evidence. The administrative hearing commission shall maintain a transcript of all testimony and proceedings in hearings governed by this section, and copies thereof shall be made available to any interested person upon the payment of a fee which shall in no case exceed the reasonable cost of preparation and supply. Decisions of the administrative hearing commission under this section shall be binding subject to appeal by either party. In the event the taxpayer prevails in any dispute under this section, interest shall be allowed at the rate of six percent per annum upon the amount found to have been wrongfully collected or erroneously paid except for taxes paid under protest and held by the director in a special deposit which shall be paid as specified by section [144.700](#). In any proceeding before the administrative hearing commission under this section the burden of proof shall be on the taxpayer except for the following issues, as to which the burden of proof shall be on the director of revenue:

(1) Whether the taxpayer has been guilty of fraud with attempt to evade tax;

(2) Whether the petitioner is liable as the transferee of property of a taxpayer (but not to show that the taxpayer was liable for the tax); and

(3) Whether the taxpayer is liable for any increase in a deficiency where such increase is asserted initially after the notice of deficiency was mailed and a protest filed, unless such increase in deficiency is the result of a change or correction of federal taxable income required to be reported by the taxpayer, and of which change or correction the director of revenue had no notice or knowledge at the time he mailed the notice of deficiency.

(L. 1978 S.B. 661, A.L. 1981 H.B. 129, A.L. 1986 S.B. 426, A.L. 1989 H.B. 143, A.L. 1991 H.B. 366 merged with S.B. 283)

**Administrative appeals authorized for agency decisions on taxcredits, abatements or loans--  
time for filing--decision of agencyto notify of right to appeal, language required--procedures.**

[621.052](#). 1. Except as otherwise provided by law, any person or entity shall have the right to appeal to the administrative hearing commission from any finding, order, decision, made by an agency regarding the eligibility of a state-administered or subsidized tax credit, tax abatement or loan pursuant to subsection 1 of section [285.025](#). Any person or entity who is a party to such a dispute shall be entitled to a hearing before the administrative hearing commission by the filing of a petition with the administrative hearing commission within thirty days after the decision of the director

of the appropriate agency is placed in the United States mail or within thirty days after the decision is delivered, whichever is earlier. The decision of the director shall contain a notice of the right of appeal in substantially the following language:

If you were adversely affected by this decision, you may appeal to the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission.

2. The procedures applicable to the processing of such hearings and determinations shall be those established by chapter 536. Decisions of the administrative hearing commission under this section shall be binding subject to appeal by either party.

(L. 1999 H.B. 701)

**Protest to administrative hearing commission pursuant to franchise agreement--filing fee required, when.**

[621.053](#). Any person authorized to protest any action taken by a motor vehicle, motorcycle or all-terrain vehicle manufacturer, distributor or representative pursuant to a franchise agreement may file a protest with the administrative hearing commission as provided in chapter 407. For cases arising pursuant to chapter 407, the administrative hearing commission may, by rule, establish a filing fee equal to the filing fee of the circuit court of Cole County.

(L. 1997 H.B. 516, A.L. 2001 H.B. 693)

**CROSS REFERENCE:**

Motor vehicle franchise practices administrative procedure and review, [407.810](#) to [407.835](#)

**Medical assistance program, suppliers of services--hearing authorized, procedures--compensation for commissioner's extra duties--notice of right to appeal, content.**

[621.055](#). 1. Any person authorized pursuant to section [208.153](#) to provide services for which benefit payments are authorized pursuant to section [208.152](#) may seek review by the administrative hearing commission of any of the actions of the department of social services specified in subsection 2, 3, 4 or 5 of section [208.156](#). The review may be instituted by the filing of a petition with the administrative hearing commission. The procedures applicable to the processing of such review shall be those established by chapter 536. The administrative hearing commission shall maintain a transcript of all testimony and proceedings in any review governed by this section, and copies thereof shall be made available to any interested person upon the payment of a fee which shall not exceed the reasonable cost of preparation and supply. Decisions of the administrative hearing commission under this section shall be binding subject to appeal by either party. If the provider of services prevails in any dispute pursuant to this section, interest shall be allowed at the rate of eight percent per annum upon any amount found to have been wrongfully denied or withheld. In any

proceeding before the administrative hearing commission pursuant to this section the burden of proof shall be on the provider of services seeking review.

2. As compensation for the additional duties imposed upon the administrative hearing commission pursuant to the provisions of this section and section [208.156](#), each commissioner shall annually receive the sum of five thousand dollars plus any salary adjustment provided pursuant to section [105.005](#). Such additional compensation shall be paid in the same manner and at the same time as other compensation for the commissioners.

3. Any decision of the department of social services that is subject to appeal to the administrative hearing commission pursuant to subsection 1 of this section shall contain a notice of the right to appeal in substantially the following language:

If you were adversely affected by this decision, you may appeal this decision to the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty days from the date of mailing or delivery of this decision, whichever is earlier; except that claims of less than five hundred dollars may be accumulated until such claims total that sum and, at which time, you have ninety days to file the petition. If any such petition is sent by registered mail or certified mail, the petition will be deemed filed on the date it is mailed. If any such petition is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission.

(L. 1979 H.B. 88, A.L. 1984 S.B. 528, A.L. 2001 H.B. 693)

Revisor's note: Salary adjustment index is printed, as required by § [105.005](#), in Appendix E.

### **Merit employees, right of appeal, procedure.**

[621.075](#). 1. Except as otherwise provided by law, any employee with merit status who has been dismissed or involuntarily demoted for cause or suspended for more than five working days shall have the right to appeal to the administrative hearing commission. Any such person shall be entitled to a hearing before the administrative hearing commission by the filing of an appeal setting forth in substance the employee's reasons for claiming that the dismissal, suspension, or demotion was for political, religious, or racial reasons, or not for the good of the service with the administrative hearing commission within thirty days after the effective date of the action. The decision of the appointing authority shall contain a notice of the right of appeal in substantially the following language:

"Any employee with regular status who has been dismissed or involuntarily demoted for cause or suspended for more than five working days may appeal to the administrative hearing commission. To appeal, you must file an appeal with the administrative hearing commission within thirty days after the effective date of the decision. If any such appeal is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission."

2. The procedures applicable to the processing of such hearings and determinations shall be those established by chapter 536. The administrative hearing commission may hold hearings or may make decisions based on stipulation of the parties, consent order, agreed settlement, or by



disposition in the nature of default judgment, judgment on the pleadings, or summary determination, in accordance with the rules and procedures of the administrative hearing commission. No hearing shall be public unless requested to be public by the employee. The administrative hearing commission shall maintain a transcript of all testimony and proceedings in hearings governed by this section, and decisions of the administrative hearing commission under this section shall be binding subject to appeal by either party. The administrative hearing commission may make any one of the following appropriate orders:

(1) Order the reinstatement of the employee to the employee's former position;

(2) Sustain the dismissal of such employee;

(3) Except as provided in subdivisions (1) and (2) of this subsection, the administrative hearing commission may sustain the dismissal, but may order the director of personnel to recognize reemployment rights for the dismissed employee pursuant to section [36.240](#), in an appropriate class or classes, or may take steps to effect the transfer of such employee to an appropriate position in the same or another division of service.

3. After an order of reinstatement has been issued and all parties have let the time for appeal lapse or have filed an appeal and that appeal process has become final and the order of reinstatement has been affirmed, the administrative hearing commission shall commence a separate action to determine the date of reinstatement and the amount of back pay owed to the employee. This action may be done by hearing, or by affidavit, depositions, or stipulations, or by agreement on the amount of back pay owed. No hearing shall be public unless requested to be public by the employee.

(L. 2010 H.B. 1868)

**Complaints--notice--agency may retain counsel--default decision,when--affidavit regarding licensee's status, procedure.**

[621.100](#). 1. Upon receipt of a written complaint from an agency named in section [621.045](#) in a case relating to a holder of a license granted by such agency, or upon receipt of such complaint from the attorney general, the administrative hearing commission shall cause a copy of said complaint to be served upon such licensee in person, or by leaving a copy of the complaint at the licensee's dwelling house or usual place of abode or last address given to the agency by the licensee with some person residing or present therein over the age of fifteen, or by certified mail, together with a notice of the place of and the date upon which the hearing on said complaint will be held. If service cannot be accomplished as described in this section, notice by publication as described in subsection 3 of section [506.160](#) shall be allowed; any commissioner is authorized to act as a court or judge would in that section, and any employee of the commission is authorized to act as a clerk would in that section. In any case initiated upon complaint of the attorney general, the agency which issued the license shall be given notice of such complaint and the date upon which the hearing will be held by delivery of a copy of such complaint and notice to the office of such agency or by certified mail. Such agency may intervene and may retain the services of legal counsel to represent it in such case.

2. When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been given under this section and section [536.067](#) upon a properly pled writing filed to initiate the contested case under this chapter or chapter 536, a default decision shall be entered against the licensee without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause" includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.

3. In any case initiated under this section, the custodian of the records of an agency may prepare a sworn affidavit stating truthfully pertinent information regarding the license status of the licensee charged in the complaint, including only: the name of the licensee; his or her license number; its designated date of expiration; the date of his or her original Missouri licensure; the particular profession, practice or privilege licensed; and the status of his or her license as current and active or otherwise. This affidavit shall be received as substantial and competent evidence of the facts stated therein notwithstanding any objection as to the form, manner of presentment or admissibility of this evidence, and shall create a rebuttable presumption of the veracity of the statements therein; provided, however, that the procedures specified in section [536.070](#) shall apply to the introduction of this affidavit in any case where the status of this license constitutes a material issue of fact in the proof of the cause charged in the complaint.

(L. 1965 p. 277 § 4, A.L. 1981 S.B. 16, A.L. 2006 S.B. 756, A.L. 2011 H.B. 265)

#### **Commission's findings and recommendations--hearing by agency on disciplinary action.**

[621.110](#). Upon a finding in any cause charged by the complaint for which the license may be suspended or revoked as provided in the statutes and regulations relating to the profession or vocation of the licensee and within one hundred twenty days of the date the case became ready for decision, the commission shall deliver or transmit by mail to the agency which issued the license the record and a transcript of the proceedings before the commission together with the commission's findings of fact and conclusions of law. The commission may make recommendations as to appropriate disciplinary action but any such recommendations shall not be binding upon the agency. A copy of the findings of fact, conclusions of law and the commission's recommendations, if any, shall be delivered or transmitted by mail to the licensee if the licensee's whereabouts are known, and to any attorney who represented the licensee. Within thirty days after receipt of the record of the proceedings before the commission and the findings of fact, conclusions of law, and recommendations, if any, of the commission, the agency shall set the matter for hearing upon the issue of appropriate disciplinary action and shall notify the licensee of the time and place of the hearing, provided that such hearing may be waived by consent of the agency and licensee where the commission has made recommendations as to appropriate disciplinary action. In case of such

waiver by the agency and licensee, the recommendations of the commission shall become the order of the agency. The licensee may appear at said hearing and be represented by counsel. The agency may receive evidence relevant to said issue from the licensee or any other source. After such hearing the agency may order any disciplinary measure it deems appropriate and which is authorized by law. In any case where the commission fails to find any cause charged by the complaint for which the license may be suspended or revoked, the commission shall dismiss the complaint, and so notify all parties.

(L. 1965 p. 277 § 5, A.L. 1978 S.B. 661, A.L. 2006 S.B. 756, A.L. 2011 H.B. 265)

#### **Notice of refusal to license, contents--complaint of applicant--hearing--order.**

[621.120](#). Upon refusal by any agency listed in section [621.045](#) to permit an applicant to be examined upon his qualifications for licensure or upon refusal of such agency to issue or renew a license of an applicant who has passed an examination for licensure or who possesses the qualifications for licensure without examination, such applicant may file, within thirty days after the delivery or mailing by certified mail of written notice of such refusal to the applicant, a complaint with the administrative hearing commission. Such written notice of refusal shall advise such applicant of his right to file a complaint with the administrative hearing commission and have a hearing pursuant to this section. Such complaint shall set forth that the applicant has passed an examination for licensure or is qualified to be examined for licensure or for licensure or renewal without examination under the laws and administrative regulations relating to his profession and shall set out with particularity the qualifications of such applicant for same. Upon receipt of such complaint the administrative hearing commission shall cause a copy of said complaint to be served upon the agency by certified mail or by delivery of such copy to the office of the agency, together with a notice of the place of and the date upon which the hearing on said complaint will be held. If at the hearing the applicant shall show that under the law he is entitled to examination for licensure or licensure or renewal, the administrative hearing commission shall issue an appropriate order to accomplish such examination or licensure or renewal, as the case may be.

(L. 1965 p. 277 § 6, A.L. 1973 H.B. 103)

#### **Time and place of hearing.**

[621.125](#). No hearing provided for in sections [621.015](#) to [621.198](#) shall be held less than twenty days after the issuance of notice of said hearing except with the consent of all parties. Hearings before the administrative hearing commission may be held in any county in the state or in the city of St. Louis, within the discretion of the hearing commissioner after he has considered the convenience of the parties involved.

(L. 1965 p. 277 § 7)

#### **Administrative procedure.**

[621.135](#). The provisions of chapter 536, and any amendments thereto, except those provisions or amendments which are in conflict with sections [621.015](#) to [621.198](#), and any civil rule hereafter

adopted which supersedes an applicable provision of chapter 536, shall apply to and govern the proceedings of the administrative hearing commission and the rights and duties of the parties involved.

(L. 1965 p. 277 § 8)

#### **Judicial review.**

[621.145](#). Except as otherwise provided by law, all final decisions of the administrative hearing commission shall be subject to judicial review as provided in and subject to the provisions of sections [536.100](#) to [536.140](#), except that in cases where a disciplinary order may be entered by the agency, no decision of the administrative hearing commission shall be deemed final until such order is entered. For purposes of review, the action of the commission and the order, if any, of the agency shall be treated as one decision. The right to judicial review as provided herein shall also be available to administrative agencies aggrieved by a final decision of the administrative hearing commission.

(L. 1965 p. 277 § 9, A.L. 1978 S.B. 661)

#### **Videoconferencing of administrative hearing permitted, when, costs.**

[621.150](#). Any party to a case before the administrative hearing commission may request that the hearing be held via videoconferencing. If that request is granted, the office of administration may charge the requesting party the costs for the videoconferencing.

(L. 2001 H.B. 693)

#### **Judicial review.**

[621.189](#). Final decisions of the administrative hearing commission in cases arising pursuant to the provisions of section [621.050](#) shall be subject to review pursuant to a petition for review to be filed in the court of appeals in the district in which the hearing, or any part thereof, is held or, where constitutionally required or ordered by transfer, to the supreme court, and by delivery of copies of the petition to each party of record, within thirty days after the mailing or delivery of the final decision and notice thereof in such a case. Review under this section shall be exclusive, and decisions of the administrative hearing commission reviewable pursuant to this section shall not be reviewable in any other proceeding, and no other official or court shall have power to review any such decision by an action in the nature of mandamus or otherwise except pursuant to the provisions of this section. The party seeking review shall be responsible for the filing of the transcript and record of all proceedings before the administrative hearing commission in the case with the appropriate court of appeals.

(L. 1978 S.B. 661, A.L. 2001 H.B. 693)

#### **Decision of commission to be upheld, when.**

[621.193](#). In cases reviewable under the provisions of section [621.189](#), the decision of the administrative hearing commission shall be upheld when authorized by law and supported by

competent and substantial evidence upon the whole record, if a mandatory procedural safeguard is not violated and if the approval or disapproval of the exercise of authority in question by the administrative hearing commission does not create a result or results clearly contrary to that which the court concludes were the reasonable expectations of the general assembly at the time such authority was delegated to the agency.

(L. 1978 S.B. 661)

#### **Commission to make rules of procedure--contents--where filed.**

[621.198](#). The administrative hearing commission shall publish and file with the secretary of state rules of procedure for the conduct of proceedings before it. Rules of procedure adopted pursuant to this section shall be designed to simplify the maintenance of actions and to enable review to be sought, where appropriate, without the need to be represented by independent counsel. Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section [536.028](#). This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

(L. 1965 p. 277 § 10, A.L. 1978 S.B. 661, A.L. 2001 H.B. 693)

#### **Documents deemed filed, when--timeliness of acts performed--facsimiletransmissions.**

[621.205](#). 1. For the purpose of determining whether documents are filed within the time allowed by law, documents transmitted to the administrative hearing commission by registered mail or certified mail shall be deemed filed with the administrative hearing commission as of the date shown on the United States post office records of such registration or certification and mailing. If the document is sent by any method other than registered mail or certified mail, the administrative hearing commission shall deem it to be filed on the date the administrative hearing commission receives it.

2. When the last day prescribed for performing any act prescribed by this chapter or chapter 536, or the commission, falls on a Saturday, Sunday, or a legal holiday in this state, the performance of such act shall be timely if it is performed on the next succeeding day which is not a Saturday, Sunday, or legal holiday.

3. The administrative hearing commission may by regulation provide for the filing of documents with the commission by electronic facsimile transmission.

(L. 1980 S.B. 809 § 1, A.L. 1991 H.B. 366 merged with S.B. 283)

#### **Appeals from decisions of certain environmental commissions to beheard by administrative hearing commission--procedure.**

621.250. 1. All authority to hear contested case administrative appeals granted in chapters 236, 256, 260, 444, 640, 643, and 644, and to the hazardous waste management commission in chapter 260, the Missouri mining commission in chapter 444, the safe drinking water commission in chapter 640, the air conservation commission in chapter 643, and the clean water commission in chapter 644 shall be transferred to the administrative hearing commission under this chapter. The authority to render final decisions after hearing on appeals heard by the administrative hearing commission shall remain with the commissions listed in this subsection. For appeals pursuant to chapter 236, chapter 256, section 260.235, or section 260.249, the administrative hearing commission shall render a final decision rather than a recommended decision. The administrative hearing commission may render its recommended or final decision after hearing or through stipulation, consent order, agreed settlement or by disposition in the nature of default judgment, judgment on the pleadings, or summary determination, consistent with the requirements of this subsection and the rules and procedures of the administrative hearing commission.

2. Except as otherwise provided by law, any person or entity who is a party to, or who is aggrieved or adversely affected by, any finding, order, decision, or assessment for which the authority to hear appeals was transferred to the administrative hearing commission in subsection 1 of this section may file a notice of appeal with the administrative hearing commission within thirty days after any such finding, order, decision, or assessment is placed in the United States mail or within thirty days of any such finding, order, decision, or assessment being delivered, whichever is earlier. Within ninety days after the date on which the notice of appeal is filed the administrative hearing commission may hold hearings, and within one hundred twenty days after the date on which the notice of appeal is filed shall make a recommended decision, or a final decision where applicable, in accordance with the requirements of this section and the rules and procedures of the administrative hearing commission; provided, however, that the dates by which the administrative hearing commission is required to hold hearings and make a recommended decision may be extended at the sole discretion of the permittee as either petitioner or intervenor in the appeal.

3. Any decision by the director of the department of natural resources that may be appealed as provided in subsection 1 of this section shall contain a notice of the right of appeal in substantially the following language: "If you were adversely affected by this decision, you may be entitled to pursue an appeal before the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the administrative hearing commission.". Within fifteen days after the administrative hearing commission renders a recommended decision, it shall transmit the record and a transcript of the proceedings, together with the administrative hearing commission's recommended decision to the commission having authority to issue a final decision. The final decision of the commission shall be issued within one hundred eighty days of the date the notice of appeal in subsection 2 of this section is filed and shall be based only on the facts and evidence in the hearing record; provided, however, that the date by which the commission is required to issue a final decision may be extended at the sole discretion of the permittee as either petitioner or intervenor in the appeal. The commission may adopt the

recommended decision as its final decision. The commission may change a finding of fact or conclusion of law made by the administrative hearing commission, or may vacate or modify the recommended decision issued by the administrative hearing commission, only if the commission states in writing the specific reason for a change made under this subsection.

4. In the event the person filing the appeal prevails in any dispute under this section, interest shall be allowed upon any amount found to have been wrongfully collected or erroneously paid at the rate established by the director of the department of revenue under section [32.065](#).

5. Appropriations shall be made from the respective funds of the department of natural resources to cover the administrative hearing commission's costs associated with these appeals.

6. In all matters heard by the administrative hearing commission under this section, the burden of proof shall comply with section [640.012](#). The hearings shall be conducted by the administrative hearing commission in accordance with the provisions of chapter 536 and its regulations promulgated thereunder.

7. No cause of action or appeal arising out of any finding, order, decision, or assessment of any of the commissions listed in subsection 1 of this section shall accrue in any court unless the party seeking to file such cause of action or appeal shall have filed a notice of appeal and received a final decision in accordance with the provisions of this section.

(L. 2005 H.B. 824, A.L. 2008 H.B. 1469, A.L. 2011 H.B. 89, A.L. 2012 H.B. 1251, A.L. 2013 H.B. 28 merged with H.B. 650, A.L. 2015 H.B. 92)

CROSS REFERENCE:

Nonseverability clause, [640.099](#)

### **Special education training for commissioners, requirements.**

[621.253](#). 1. At least three of the commissioners shall receive at least ten hours of initial training in special education matters and shall be the only commissioners who are assigned to special education due process hearings. The initial training shall be selected by the administrative hearing commission in consultation with the department of elementary and secondary education and the IDEA-funded parent training and information center located in this state. The training shall ensure that the commissioners receive knowledge of educational and legal matters sufficient for them to possess knowledge of the matters brought before them. If allowed by the policies of the training provider, materials from the training, including any available audio or video, shall be posted to the administrative hearing commission's website within ten business days from the date of the training.

2. Each commissioner assigned to special education due process hearings shall annually complete a minimum of five hours of training selected by the administrative hearing commission in consultation with the department of elementary and secondary education and the IDEA-funded parent training and information center located in this state. The training shall ensure that the commissioners receive updated knowledge of educational and legal matters sufficient for them to possess knowledge of the matters brought before them. If allowed by the rules and regulations of the training provider, materials from the training, including any available audio or video, shall be posted

to the administrative hearing commission's website within ten business days from the date of the training.

3. If any special education training is provided directly by the department of elementary and secondary education, the IDEA-funded parent training and information center located in this state, or a provider working directly on behalf of either group, the group shall provide materials from the training, including any available audio or video, on its website within ten business days from the date of the training.

(L. 2012 S.B. 595)

Effective 7-05-12

### **Educational due process fund created, use of moneys.**

[621.255](#). 1. There is hereby established in the state treasury the "Administrative Hearing Commission Educational Due Process Hearing Fund". The fund shall be administered by the administrative hearing commission. The state treasurer shall be custodian of the fund. The fund shall consist of all moneys that may be appropriated to it by the general assembly and may also include any gifts, contributions, grants, or bequests received from federal, state, private, or other sources. In accordance with sections [30.170](#) and [30.180](#), the state treasurer may approve disbursements. The fund shall be a dedicated fund and moneys in the fund shall be used solely for the payment of expenditures actually incurred by the administrative hearing commission and attributable to due process hearings and state and federal legislation and regulations.

2. Notwithstanding the provisions of section [33.080](#) to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

(L. 2012 S.B. 595)

Effective 7-05-12

### **Decisions of department of public safety, victims of crime, appeal to administrative hearing commission, procedure.**

[621.275](#). 1. Any person shall have the right to appeal to the administrative hearing commission from any decision made by the department of public safety under section [595.036](#) regarding such person's claim for compensation as provided in sections [595.010](#) to [595.075](#).

2. Any person filing an appeal with the administrative hearing commission shall be entitled to a hearing before the commission. The person shall file a petition with the commission within thirty days after the decision of the director of the department of public safety is sent in the United States mail or within thirty days after the decision is delivered, whichever is earlier. The director's decision shall contain a notice of the person's right to appeal:



"If you were adversely affected by this decision, you may appeal to the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty days after the date this decision was delivered. If your petition is sent by registered or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail, it will be deemed filed on the date it is received by the commission."

3. Decisions of the administrative hearing commission under this section shall be binding subject to appeal by either party. The procedures established under chapter 536 shall apply to any hearings and determinations under this section.

(L. 2014 H.B. 1299 Revision)



Missouri General Assembly

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