

IN THE SENATE

SENATE CONCURRENT RESOLUTION NO. 124

BY JUDICIARY AND RULES COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL
TO APPOINT AN INTERIM COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF PO-
TENTIAL APPROACHES TO THE APPOINTMENT OF ADMINISTRATIVE HEARING OFFI-
CERS FOR CONTESTED CASES.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, state agencies and members of the public are often opposing
parties in a contested case administrative hearing; and

WHEREAS, an order issued in such a contested case can determine legal
rights, duties, privileges, immunities and other legal interests; and

WHEREAS, administrative hearing officers in contested cases play an in-
tegral role in determining the outcome of contested cases and any orders that
are issued; and

WHEREAS, hearing officers should have the independence and expertise to
conduct a fair and thorough hearing; and

WHEREAS, allowing agencies to hire hearing officers in contested cases
where the agency is a party is contrary to and does not promote independence
of the hearing officers; and

WHEREAS, having an available pool of qualified hearing officers with
consistent contract terms, and who are assigned randomly and independent of
the agency involved in the contested case, will promote and preserve impar-
tiality and due process for the citizens of Idaho; and

WHEREAS, current contested case procedures, including those pertaining
to discovery, are uneven and inconsistent; and

WHEREAS, significant issues exist as to whether current standards for
judicial review of contested case proceedings are adequate.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Ses-
sion of the Sixty-third Idaho Legislature, the Senate and the House of Rep-
resentatives concurring therein, that the Legislative Council is authorized
to appoint a committee to undertake and complete a study of contested case
procedures, judicial review of contested case proceedings and potential ap-
proaches to appointing administrative hearing officers including, but not
limited to: creating a viable pool of candidates to serve as impartial hear-
ing officers; determining which cases and state agencies may require a pool
of candidates with special technical expertise; and determining model con-
tract terms for all hearing officers. The committee shall consist of ten
legislators, with five from the Senate and five from the House of Representa-
tives. The Legislative Council shall authorize the committee to receive in-
put, advice and assistance from interested and affected parties who are not
members of the Legislature.

BE IT FURTHER RESOLVED that the cochairmen of the committee are autho-
rized to appoint advisors with technical expertise in the area of contested

1 case administrative hearings and hearing officers and are expected to re-
2 ceive input from stakeholders in various state agencies.

3 BE IT FURTHER RESOLVED that any advisors to the committee who are not
4 legislative members shall not be reimbursed from legislative funds for per
5 diem, mileage or other expenses and shall not have voting privileges.

6 BE IT FURTHER RESOLVED that the committee shall report its findings,
7 recommendations and proposed legislation, if any, to the Second Regular
8 Session of the Sixty-third Idaho Legislature.