

52:14F-1 Establishment; allocation within department of state; office defined

There is hereby established in the Executive Branch of the State Government the Office of Administrative Law. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the Office of Administrative Law is hereby allocated within the Department of State, but notwithstanding said allocation, the office shall be independent of any supervision or control by the department or by any personnel thereof. As used in this act, "office" shall mean the Office of Administrative Law.

52:14F-2 Transfer of functions, powers and duties of division of administrative procedure to office of administrative law

All the functions, powers and duties heretofore exercised by the Division of Administrative Procedure in the Department of State pursuant to the Administrative Procedure Act, P.L.1968, c. 410 (C. 52:14B-1 et seq.) are transferred to and vested in the Office of Administrative Law created by this amendatory and supplementary act.

52:14F-3 Director

The head of the office shall be the director who shall be an attorney-at-law of this State for a minimum of five years. The director shall be appointed by the Governor with the advice and consent of the Senate.

The director shall serve for a term of six years. As used in this act, "director" shall mean the Director of the Office of Administrative Law and Chief Administrative Law Judge.

The director shall devote full time to the duties of the office and shall receive an annual salary equal to 89% of the annual salary of a Judge of the Superior Court. Any vacancy occurring in the office of the director shall be filled in the same manner as the original appointment, but for the unexpired term only.

52:14F-4 Administrative law judges; appointment, terms; compensation; recall.

Permanent administrative law judges shall be appointed by the Governor with the advice and consent of the Senate to initial terms of one year. During this initial term, each judge shall be subject to a program of evaluation as delineated in section 5 of P.L.1978, c.67 (C.52:14F-5). First reappointment of a judge after this initial term shall be by the Governor for a term of four years and until the appointment and qualification of the judge's successor.

Administrative law judges nominated by the Governor before July 1, 1981 shall, upon their confirmation by the Senate, serve for terms of five years and until the appointment and qualification of their successors.

Subsequent reappointments of a judge shall be by the Governor with the advice and consent of the Senate to terms of five years and until the appointment and qualification of the judge's successor. The

advice and consent of the Senate, as provided in this section, shall be exercised within 45 days after a nomination for appointment has been submitted to the Senate, and if no action has been taken within the 45-day period, the nomination shall be deemed confirmed. This 45-day period shall not apply to any person nominated by the Governor for the position of administrative law judge prior to July 1, 1981.

The annual salary for an administrative law judge during the initial term of one year shall be equal to 75% of the annual salary of a Judge of the Superior Court. The annual salary for a judge during the first year of the first reappointment shall be increased to 78 2/3 % of the annual salary of a Judge of the Superior Court. Upon receipt of satisfactory annual evaluations, the annual salary for a judge shall be increased to 81 2/3 % of the annual salary of a Judge of the Superior Court for the second year of the first reappointment and to 85% of the annual salary of a Judge of the Superior Court for the third year of the first reappointment. The annual salary shall be 85% of the annual salary of a Judge of the Superior Court for the fourth year of the first reappointment and for each year of subsequent reappointments thereafter.

In addition to salary, an administrative law judge regularly assigned as an assignment judge shall receive \$2,500 annually as additional compensation, and a judge regularly assigned other administrative or supervisory duties shall receive \$1,500 annually as additional compensation.

All administrative law judges, including the Chief Administrative Law Judge, shall be retired upon attaining the age of 70 years, except that any administrative law judge who has retired on pension or retirement allowance may, with the judge's consent, be recalled by the Director/Chief Administrative Law Judge of the Office of Administrative Law for service as a recalled judge in the Office of Administrative Law. No recalled judge shall serve beyond his 80th birthday.

Upon such recall the retired judge shall have all the powers of an administrative law judge and shall be paid a per diem allowance fixed by the Director/ Chief Administrative Law Judge. In addition the recalled judge shall be reimbursed for reasonable expenses actually incurred by him in connection with his assignment and shall be provided with such facilities as may be required in the performance of his duties. Such per diem compensation and expenses shall be paid by the State. Payment for services and expenses shall be made in the same manner as payment is made to the judges of the Office of Administrative Law from which he retired.

52:14F-4.1 Inapplicability of mandatory retirement for administrative law judges, certain.

The mandatory retirement provisions implemented pursuant to this act, P.L.1999, c.380 (C.52:14-15.115 et al.), shall be inapplicable for three years after the effective date of this act to any judge of the Office of Administrative Law who is in service on the effective date of this act.

52:14F-4.2 Certain administrative law judges permitted to work beyond age 70.

Notwithstanding the provisions of this act, P.L.1999, c.380 (C.52:14-15.115 et al.), to the contrary, any judge of the Office of Administrative Law who is 60 years of age or older on the effective date of this act shall be permitted to continue service as a judge until attaining 10 years of service under the "Public

Employees' Retirement System Act," P.L.1954, c.84 (C.43:15A-1 et seq.).

52:14F-5 Powers, duties of Director and Chief Administrative Law Judge.

The Director and Chief Administrative Law Judge of the Office of Administrative Law shall:

- a. Administer and cause the work of the office to be performed in such manner and pursuant to such program as may be required or appropriate;
- b. Organize and reorganize the office, and establish such bureaus as may be required or appropriate;
- c. Except as otherwise provided in subsections l. and t., below, appoint, pursuant to the provisions of Title 11A of the New Jersey Statutes, such clerical assistants and other personnel as may be required for the conduct of the office;
- d. Assign and reassign personnel to employment within the office;
- e. Develop uniform standards, rules of evidence, and procedures, including but not limited to standards for determining whether a summary or plenary hearing should be held to regulate the conduct of contested cases and the rendering of administrative adjudications;
- f. Promulgate and enforce such rules for the prompt implementation and coordinated administration of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as may be required or appropriate;
- g. Administer and supervise the procedures relating to the conduct of contested cases and the making of administrative adjudications, as defined by section 2 of P.L.1968, c.410 (C.52:14B-2), and develop and implement an electronic filing system for the conduct of contested cases in such a manner and within such a time period as deemed practicable within available resources;
- h. Advise agencies concerning their obligations under the Administrative Procedure Act, subject to the provisions of subsections b. and e. of section 4 of P.L.1944, c.20 (C.52:17A-4);
- i. Assist agencies in the preparation, consideration, publication and interpretation of administrative rules required or appropriate pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.);
- j. Employ the services of the several agencies and of the employees thereof in such manner and to such extent as may be agreed upon by the director and the chief executive officer of such agency;
- k. Have access to information concerning the several agencies to assure that they properly promulgate all rules required by law;
- l. Assign permanent administrative law judges at supervisory and other levels who are qualified in the

field of administrative law or in subject matter relating to the hearing functions of a State agency.

Administrative law judges shall receive such salaries as provided by section 4 of P.L.1978, c.67 (C.52:14F-4), as amended by P.L.1999, c.380, shall not engage in the practice of law and shall devote full time to their judicial duties.

Administrative law judges appointed after the effective date of this amendatory act shall have been attorneys-at-law of this State for a minimum of five years. An administrative law judge appointed prior to the effective date of this amendatory act shall not be required to be an attorney or, if an attorney, shall not be required to have been an attorney-at-law for five years in order to be reappointed;

m. Appoint additional administrative law judges, qualified in the field of administrative law or in a subject matter relating to the hearing functions of a State agency, on a temporary or case basis as may be necessary during emergency or unusual situations for the proper performance of the duties of the office, pursuant to a reasonable fee schedule established in advance by the director. Administrative law judges appointed pursuant to this procedure shall have the same qualifications for appointment as permanent administrative law judges;

n. Assign administrative law judges to conduct contested cases as required by sections 9 and 10 of P.L.1968, c.410 (C.52:14B-9 and 52:14B-10). Proceedings shall be scheduled for suitable locations, either at the offices of the Office of Administrative Law or elsewhere in the State, taking into consideration the convenience of the witnesses and parties, as well as the nature of the cases and proceedings;

o. Assign an administrative law judge or other personnel, if so requested by the head of an agency and if the director deems appropriate, to any agency to conduct or assist in administrative duties and proceedings other than those related to contested cases or administrative adjudications, including but not limited to rule-making and investigative hearings;

p. Assign an administrative law judge not engaged in the conduct of contested cases to perform other duties vested in or required of the office;

q. Secure, compile and maintain all reports of administrative law judges issued pursuant to this act, and such reference materials and supporting information as may be appropriate;

r. Develop and maintain a program for the continuing training and education of administrative law judges and agencies in regard to their responsibilities under this act;

s. Develop and implement a program of judicial evaluation to aid himself in the performance of his duties, and to assist in the making of reappointments under section 4 of P.L.1978, c.67 (C.52:14F-4). This program of evaluation shall focus on three areas of judicial performance: competence, productivity, and demeanor. It shall include consideration of: industry and promptness in adhering to schedules, making rulings and rendering decisions; tolerance, courtesy, patience, attentiveness, and self-control in dealing with litigants, witnesses and counsel, and in presiding over contested cases; legal skills and knowledge of the law and new legal developments; analytical talents and writing abilities; settlement

skills; quantity, nature and quality of caseload disposition; impartiality and conscientiousness. The director shall develop standards and procedures for this program, which shall include taking comments from selected litigants and lawyers who have appeared before a judge. The methods used by the judge but not the result arrived at by the judge in any case may be used in evaluating a judge. Before implementing any action based on the findings of the evaluation program, the director shall discuss the findings and the proposed action with the affected judge. The evaluation by the director and supporting data shall be submitted to the Governor at least 90 days before the expiration of any term. These documents shall remain confidential and shall be exempted from the requirements of P.L.1963, c.73 (C.47:1A-1 et seq.);

t. Promulgate and enforce rules for reasonable sanctions, including assessments of costs and attorneys' fees which may be imposed on a party, and attorney or other representative of a party who, without just excuse, fails to comply with any procedural order or with any standard or rule applying to a contested case and including the imposition of a fine not to exceed \$1,000.00 for misconduct which obstructs or tends to obstruct the conduct of contested cases;

u. Have power in connection with contested case hearings (1) to administer oaths to any and all persons, (2) to compel by subpoena the attendance of witnesses and the production of books, records, accounts, papers, and documents of any person or persons, (3) to entertain objections to subpoenas, and (4) to rule upon objections to subpoenas except, that any orders of administrative law judges regarding these objections may be reviewed by the agency head before the completion of the contested case in accordance with procedural rules, adopted by the Director and Chief Administrative Law Judge of the Office of Administrative Law. Misconduct by any party, attorney or representative of a party or witness which obstructs or tends to obstruct the conduct of a contested case or the failure of any witness, when duly subpoenaed to attend, give testimony or produce any record, or the failure to pay any sanction assessed pursuant to subsection t. of this section, shall be punishable by the Superior Court in the same manner as such failure is punishable by such court in a case pending therein;

v. Assign any judge recalled pursuant to section 4 of P.L.1978, c.67 (C.52:14F-4) and fix the per diem allowance;

w. Assign an administrative law judge or other personnel to conduct arbitration, mediation, and other forms of alternative dispute resolution with regard to any contested case or any proceeding other than that related to a contested case or administrative adjudication; and

x. Schedule hearings in an expeditious and efficient manner taking into account the significance of the issues, the needs of the parties, available resources, costs to the parties, and other relevant factors. The director may, on a temporary basis when required by exigent circumstances, schedule hearings notwithstanding deadlines otherwise set forth in statute.

52:14F-6. Administrative law judges, assignment; special appointment

a. Administrative law judges shall be assigned by the director from the office to an agency to preside over contested cases in accordance with the special expertise of the administrative law judge.

b. A person who is not an employee of the office may be specially appointed and assigned by the director to preside over a specific contested case, if the director certifies in writing the reasons why the character of the case requires utilization of a different procedure for assigning administrative law judges than is established by this amendatory and supplementary act.

c. Each administrative law judge shall have and exercise the powers conferred upon the director to the extent that the director shall delegate them by rule.

52:14F-7. Construction of act

a. Nothing in this amendatory and supplementary act shall be construed to deprive the head of any agency of the authority pursuant to section 10 of P.L.1968, c.410 (C.52:14B-10) to determine whether a case is contested or to adopt, reject or modify the findings of fact and conclusions of law of any administrative law judge consistent with the standards for the scope of review to be applied by the head of the agency as set forth in that section and applicable case law.

b. Nothing in this amendatory and supplementary act shall be construed to affect the conduct of any contested case initiated prior to the effective date of this act, or the making of any administrative adjudication in such contested case.

52:14F-8 Administrative Law jurisdictional exclusions *Text of section operative until Dec. 31, 1987

Unless a specific request is made by the agency, no administrative law judge shall be assigned by the director to hear contested cases with respect to:

a. The State Board of Parole; the Public Employment Relations Commission; the Division of Workers' Compensation; the Division of Tax Appeals; or the management or operation by any agency of a State custodial, penal or correctional institution or program, insofar as the acts of the agency relate to the internal affairs of the institution or program unless the sanctions arising from a single incident involve the loss of 365 days or more of time credits awarded pursuant to R.S. 30:4-140.

b. Any matter where the head of the agency, a commissioner or several commissioners are required to conduct or determine to conduct the hearing directly and individually.

52:14F-9. Applicability of State Agency Transfer Act

This act shall be subject to the provisions of the State Agency Transfer Act, P.L.1971, c. 375 (C. 52:14D-1 et seq.).

52:14F-10. Repeal of inconsistent acts and parts of act

All acts and parts of acts inconsistent with any of the provisions of this amendatory and supplementary act are, to the extent of such inconsistency, superseded and repealed.

52:14F-11. Severability

If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application and to this end the provisions of this act are declared to be severable.

52:14F-12. Environmental unit

a. The Director of the Office of Administrative Law shall, within 12 months after the effective date of this act, establish within the Office of Administrative Law an environmental unit consisting of administrative law judges having special expertise in environmental law. The number of administrative law judges in the environmental unit shall be proportional to the number and complexity of environmental cases referred to the office.

b. Upon the establishment of the environmental unit, all contested cases, as defined in section 2 of P.L.1968, c.410 (C.52:14B-2), concerning environmental law referred to the Office of Administrative Law shall be assigned to and adjudicated by the administrative law judges in the environmental unit.

52:14F-13. Environmental workload reports

The director shall, within 12 months after enactment, and annually thereafter, notify the Assembly Energy and Environment Committee and the Senate Environmental Quality Committee or their successors, of the number of cases pending in the Office of Administrative Law, the total number of Administrative Law Judges serving in the office, the number of Administrative Law Judges serving in the environmental unit and the number of environmental cases assigned to the environmental unit.

52:14F-14 Definitions relative to expedited appeals in OAL.

As used in sections 12 through 18 of P.L.2004, c.89 (C.52:14F-15 through C.52:14F-21):

"Applicant" means any person applying for a permit pursuant to section 3, 5, 7, 9 or 10 of P.L.2004, c.89 (C.52:27D-10.4, C.13:1D-145, C.27:1E-2, C.52:27D-10.6 or C.13:1D-146);

"Ombudsman" or "Smart Growth Ombudsman" means the Smart Growth Ombudsman appointed by the Governor pursuant to section 2 of P.L.2004, c.89 (C.52:27D-10.3);

"Permit" means any permit or approval issued by the Department of Environmental Protection, pursuant to any law, or any rule or regulation adopted pursuant thereto, provided that "permit" shall not include any approval of a grant, or a permit issued pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), the "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-

1 et seq.), the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), or the "Radiation Protection Act," P.L.1958, c.116 (C.26:2D-1 et seq.), any permit or approval issued by the Department of Transportation pursuant to any law, or any rule or regulation adopted pursuant thereto, or any permit or approval required as a condition of development or redevelopment issued by the Department of Community Affairs pursuant to any law or any rule or regulation adopted pursuant thereto;

"Person" means any individual, corporation, company, partnership, firm, association, owner or operator of a treatment works, political subdivision of this State, or State or interstate agency; and

"Smart growth area" means an area designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center, or a designated growth center in an endorsed plan; a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (j) of section 6 of P.L.1968, c.404 (C.13:17-6); a growth area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to section 7 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8); an urban enterprise zone designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) and as approved by the Department of Community Affairs; or similar areas designated by the Department of Environmental Protection.

52:14F-15 Expedited appeal of contested permit action.

Upon the request of the applicant and in accordance with sections 14, 15, and 16 of P.L. 2004, c.89 (C.52:14F-17, C.52:14F-18 and C.52:14F-19), the Office of Administrative Law shall provide for the expedited appeal of any contested permit action for a proposed project in a smart growth area. An applicant who does not exercise this option retains the right to an administrative hearing and decision on the permit application pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

52:14F-16 Smart Growth Unit established in OAL.

a. There is hereby established within the Office of Administrative Law a Smart Growth Unit consisting of administrative law judges having expertise in the matters heard pursuant to this section. All cases transmitted to the Office of Administrative Law pursuant to this section shall be assigned to and adjudicated by the administrative law judges in the Smart Growth Unit.

b. The Governor with the advice and consent of the Senate shall appoint administrative law judges to the Smart Growth Unit. Administrative law judges appointed to the Smart Growth Unit shall have expertise in the relevant subject areas pertaining to P.L.2004, c.89 (C.52:27D-10.2 et al.) and shall be subject to the terms of appointment and employment set forth in sections 4 and 5 of P.L.1978, c.67 (C.52:14F-4 and C.52:14F-5). The Director of the Office of Administrative Law and Chief Administrative Law Judge shall assign an administrative law judge as the assignment judge for the unit.

52:14F-17 Transmittal of administrative record.

a. Within 15 days after the receipt by the Division of Smart Growth of notice of an applicant's request for an expedited review pursuant to subparagraph (d) of paragraph (1) of subsection c. of section 5, subparagraph (d) of paragraph (1) of subsection c. of section 7, or subparagraph (d) of paragraph (1) of subsection c. of section 9 of P.L.2004, c.89 (C.13:1D-145, C.27:1E-2 or C.52:27D-10.6), as appropriate, the Division of Smart Growth shall transmit to the clerk of the Office of Administrative Law the administrative record which shall consist of:

- (1) the request for an expedited review of the application;
- (2) the application;
- (3) documents the applicant filed in support of the application;
- (4) the qualified and registered professional's certification that the application is complete and meets all statutory and regulatory requirements for approval;
- (5) the Division of Smart Growth's notices of deficiency, if any, that the application is incomplete;
- (6) the Division of Smart Growth's documentation, if any, in support of its determination that the application is incomplete; and
- (7) the applicant's request for an expedited hearing.

b. The case shall be assigned to an administrative law judge who shall be a member of the Smart Growth Unit. Within 15 days after the filing of the case with the clerk of the Office of Administrative Law, the parties shall file briefs with the administrative law judge. There shall be no presumptions in favor of either party. No other evidence shall be admitted or relied upon, except by consent of the parties and with approval of the administrative law judge. Discovery shall not be available, except by consent of the parties. The standard of review shall be by the preponderance of the evidence.

c. Within 30 days after the date of submission of the briefs, the administrative law judge shall issue a written decision as to whether the application is complete. The time limits established herein shall not be extended except by consent of the parties.

d. If the administrative law judge decides that the application is complete, the Director of the Division of Smart Growth shall take action to approve, approve with conditions or deny the permit application within 45 days after the receipt of the decision.

e. The decision of the administrative law judge on the issue of completeness of the application shall be the final decision binding on the parties and shall not be subject to further review or appeal by either the Division of Smart Growth established pursuant to section 5, 7 or 9 of P.L.2004, c.89 (C.13:1D-145, C.27:1E-2 or C.52:27D-10.6), as appropriate, or the applicant.

f. An applicant who does not request an expedited review pursuant to subparagraph (d) of paragraph (1) of subsection c. of section 5, subparagraph (d) of paragraph (1) of subsection c. of section 7 or subparagraph (d) of paragraph (1) of subsection c. of section 9 of P.L.2004, c.89 (C.13:1D-145, C.27:1E-2 or C.52:27D-10.6), as appropriate, retains the right to an administrative hearing and decision on the permit application pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

52:14F-18 Denial of expedited permit, expedited hearing.

a. If an application for a permit for a proposed project in a smart growth area is denied, the Office of Administrative Law shall provide an expedited hearing to review the denial of the permit upon the request of the applicant. An applicant who does not request a hearing pursuant to this section retains the right to an administrative hearing and decision on the permit application pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. Within 15 days after receipt by the Division of Smart Growth of notice of an applicant's request for an expedited hearing, the division shall transmit to the clerk of the Office of Administrative Law the administrative record which shall consist of:

- (1) the application;
- (2) documents the applicant filed in support of the application;
- (3) the qualified and registered professional's certification that the application is complete and meets all statutory and regulatory requirements for approval;
- (4) the Division of Smart Growth's notices of deficiency, if any, that the application is incomplete;
- (5) the Division of Smart Growth's documentation, if any, in support of its determination to deny the application; and
- (6) the applicant's request for an expedited hearing and decision.

c. The case shall be assigned to an administrative law judge who shall be a member of the Smart Growth Unit. The administrative law judge shall establish an expedited briefing and hearing schedule. Any hearings shall be concluded within 45 days after receipt of the case by the administrative law judge.

d. Nothing herein shall diminish the applicant's obligation to prove in the application process that it satisfies standards for approval of an application. There shall be no presumptions in favor of either party as to the underlying permit decision. The standard of review shall be by the preponderance of the evidence.

e. Within 45 days after the closing of the record, the administrative law judge shall issue a written decision as to whether the applicant has satisfied the standards required for the permit. The time limits established herein shall not be extended except by consent of the parties and the administrative law

judge.

f. If the administrative law judge decides that the application should be approved, the Director of the Division of Smart Growth shall take action to approve or approve with conditions the permit within 10 days after receipt of the decision.

g. The decision of the administrative law judge shall be the final decision binding on the parties and shall not be subject to further review or appeal by either the Division of Smart Growth established pursuant to section 5, 7 or 9 of P.L.2004, c.89 (C.13:1D-145, C.27:1E-2 or C.52:27D-10.6), as appropriate, or the applicant.

52:14F-19 Expedited hearing on terms or conditions on permits in smart growth areas.

a. If an application for a permit for a proposed project in a smart growth area is approved by the Division of Smart Growth with terms or conditions, the Office of Administrative Law shall provide an expedited hearing and decision on any terms or conditions of such permit upon the request of the applicant. An applicant who does not request an expedited hearing pursuant to this section retains the right to an administrative hearing and decision on the permit application pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. Within 15 days after receipt by the agency of notice of an applicant's request for an expedited hearing and decision, the Division of Smart Growth shall transmit to the clerk of the Office of Administrative Law the case record which shall consist of:

- (1) the application;
- (2) documents the applicant filed in support of the application;
- (3) the qualified and registered professional's certification that the application is complete and meets all statutory and regulatory requirements for approval;
- (4) the Division of Smart Growth's notices of deficiency, if any, that the application is incomplete;
- (5) the Division of Smart Growth's documentation, if any, in support of its determination to include the terms or conditions that are being contested; and
- (6) the applicant's request for an expedited hearing and decision.

c. The case shall be assigned to an administrative law judge who shall be a member of the Smart Growth Unit. The administrative law judge shall establish an expedited briefing and hearing schedule. Any hearings shall be concluded within 45 days after receipt of the case by the administrative law judge.

d. Nothing herein shall diminish the applicant's obligation to prove in the application process that it satisfies standards for approval of an application. There shall be no presumptions in favor of either

party as to the underlying permit decision. The standard of review shall be by the preponderance of the evidence.

e. Within 45 days after the closing of the record, the administrative law judge shall issue a written decision as to whether the applicant has satisfied the standards required for the permit. The time limits established herein shall not be extended except by consent of the parties and the Administrative Law Judge.

f. If the administrative law judge decides that a permit term or condition should be deleted or amended, the Director of the Division of Smart Growth shall take action to revise the terms or conditions of the permit within 10 days after receipt of the decision.

g. The decision of the administrative law judge shall be the final decision binding on the parties and shall not be subject to further review or appeal by either the Division of Smart Growth established pursuant to section 5, 7 or 9 of P.L.2004, c.89 (C.13:1D-145, C.27:1E-2 or C.52:27D-10.6), as appropriate, or the applicant.

52:14F-20 Filing fees in Smart Growth Unit.

The Office of Administrative Law shall have authority to establish filing fees, payable by the applicant, necessary to administer the Smart Growth Unit, including the direct and indirect costs for personnel, operating expenses, equipment and activities of the Smart Growth Unit. These filing fees shall be published in the New Jersey Register and shall be effective upon publication therein.

52:14F-21 OAL rules, regulations.

The Office of Administrative Law may adopt those rules and regulations that it deems necessary to carry out the requirements of P.L.2004, c.89 (C.52:27D-10.2 et al.), which shall be effective upon filing.

52:14F-21.1 Special education law unit, Office of Administrative Law, establishment.

a. The director and Chief Administrative Law Judge of the Office of Administrative Law shall establish within the Office of Administrative Law a special education unit consisting of administrative law judges having expertise in special education law. The director and Chief Administrative Law Judge shall ensure that the administrative law judges in the special education unit include individuals with a wide range of special education law expertise, including expertise as school board attorneys and as parent and student advocates. The number of administrative law judges in the special education unit shall be proportional to the number and complexity of special education cases referred to the office and shall be of a sufficient number to render decisions within the time periods mandated under federal and State law. The director and Chief Administrative Law Judge may appoint administrative law judges to the special education unit on a temporary or case basis as need arises.

b. Upon the establishment of the special education unit, all contested cases, as defined in section 2 of P.L.1968, c.410 (C.52:14B-2), concerning special education law referred to the Office of Administrative

Law shall be assigned to and adjudicated by the administrative law judges in the special education unit.

52:14F-21.2 Annual report to the Governor, Legislature.

The director and Chief Administrative Law Judge shall prepare an annual report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, regarding the special education unit established under section 1 of P.L.2021, c.390 (C.52:14F-21.1). The report shall include:

- a. the number of special education cases that were decided via a final settlement within 45 days after the case was transmitted to the Office of Administrative Law, and of the remaining petitions transmitted to the Office of Administrative Law, the number of cases that were heard and decided in a written decision within 45 days after the case was transmitted to the Office of Administrative Law;
- b. a list setting forth each special education case that was not decided within the 45 days, including the total number of days it took the administrative law judge to hear the case and issue the decision and the reason why the case was not decided within the 45 days;
- c. the number of administrative law judges currently assigned to the special education unit;
- d. recommendations as to whether the number of administrative law judges in the special education unit is sufficient to render decisions within the time periods mandated under federal and State law and, if not, recommendations concerning the number of additional administrative law judges that would be needed to enable the special education unit to render decisions within federal and State mandated time periods; and
- e. other relevant information and recommendations at the discretion of the director and Chief Administrative Law Judge.

52:14F-21.3 Track system development, petition status.

The director and Chief Administrative Law Judge of the Office of Administrative Law, in consultation with the Department of Education, shall develop a system to track a due process petition once it is assigned to an administrative law judge and to allow petitioners to track the status of their petition.

52:14F-22 Appeals referred to Office of Administrative Law.

- a. Appeals filed with the Treasurer pursuant to section 4 of P.L.2005, c.124 (C.52:18-38) shall be referred to the Office of Administrative Law for hearing, and shall be given priority by that office.
- b. The Office of Administrative Law shall establish a system for expedited hearings of contested determinations of debt in accordance with the provisions of section 4 of P.L.2005, c.124 (C.52:18-38).
- c. The Office of Administrative Law shall establish a system for expedited hearings of the State's applications for wage executions in accordance with the provisions of subsection b. of N.J.S. 2A:17-50.

d. Nothing herein shall preclude the Office of Administrative Law from joining the hearings of contested determinations of debt and the State's applications for wage executions in appropriate cases.

e. The provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall apply to hearings and appeals pursuant to P.L.2005, c.124 (C.2A:16-11.1 et al.).

52:14F-23 Administrative Law Judge, power to hear application for a wage execution.

a. An Administrative Law Judge shall have the power to hear the State's application for a wage execution pursuant to subsection b. of N.J.S. 2A:17-50 and to issue an order directing that an execution issue against wages, earnings, salary, income from trust funds or profits of the person who owes the debt.

b. The State shall serve the person who owes the debt with a copy of the application for wage execution. Such notice shall be mailed to the person's last known address and shall advise the person that, if the person wishes to contest the application, he may request a hearing within 30 days by filing such request with the Office of Administrative Law and the State Treasurer.

c. Such applications shall be heard and decided by the Office of Administrative Law within 45 days of the date of the filing of the application by the State.

d. The provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall apply to hearings and appeals pursuant to this section.

e. An order of an Administrative Law Judge pursuant to this section shall be considered final agency action for the purposes of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and shall be subject only to judicial review as provided in the Rules of Court.