



January 18, 2024

HOUSE BILL No. 1003

DIGEST OF HB 1003 (Updated January 17, 2024 10:59 am - DI 151)

Citations Affected: IC 4-15; IC 4-21.5; IC 4-22; IC 13-14; IC 13-15; IC 13-17; IC 13-18; IC 13-19; IC 13-20; IC 13-23; IC 13-24; IC 13-25; IC 13-30; IC 14-10; IC 14-34; noncode.

Synopsis: Administrative law. Makes the office of administrative law proceedings the ultimate authority in any administrative proceeding under its jurisdiction. Provides certain exceptions. Specifies when a state agency may be required to pay reasonable attorney's fees for judicial review proceedings. Outlines procedures for the ultimate authority regarding nonfinal orders and procedures to file objections to final orders. Provides that the court shall decide all questions of law, including any interpretation of a federal or state constitutional provision, state statute, or agency rule, without deference to any previous interpretation made by the state agency. Requires the state agency to transmit the agency record to the court for judicial review. Eliminates the office of environmental adjudication and transfers proceedings to the office of administrative law proceedings. Creates requirements for administrative law judges that are assigned to certain environmental matters. Provides that until the office of administrative law proceedings adopts or amends rules related to environmental matters, it must continue to follow and implement rules under 315 IAC. Requires the office of administrative law proceedings to continue to index and make publicly available, in a substantially similar online searchable format, the final orders of contested appeals currently maintained by the office. Makes conforming changes.

Effective: July 1, 2024.

Steuerwald, Jeter, Meltzer

January 8, 2024, read first time and referred to Committee on Judiciary.
January 18, 2024, amended, reported — Do Pass.

HB 1003—LS 6926/DI 151



January 18, 2024

Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1003

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-15-10.5-2, AS ADDED BY P.L.205-2019,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]: Sec. 2. This chapter does not apply to:
4 (1) the department of workforce development;
5 (2) the unemployment insurance review board of the department
6 of workforce development;
7 (3) the worker's compensation board of Indiana;
8 (4) the Indiana utility regulatory commission;
9 (5) the department of state revenue;
10 (6) the department of local government finance;
11 (7) the Indiana board of tax review;
12 (8) the natural resources commission;
13 ~~(9) the office of environmental adjudication;~~
14 ~~(+0) (9)~~ the Indiana education employment relations board;
15 ~~(+1) (10)~~ the state employees appeals commission; or
16 ~~(+2) (11)~~ before July 1, 2022, any other agency or category of
17 proceeding determined by the governor to be exempt from this

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1 chapter for good cause.
 2 SECTION 2. IC 4-15-10.5-12, AS ADDED BY P.L.205-2019,
 3 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2024]: Sec. 12. (a) ~~Beginning July 1, 2020, and~~ Except as
 5 provided in sections 1 and 2 of this chapter, the office has jurisdiction
 6 over all administrative proceedings concerning agency administrative
 7 actions under:

- 8 (1) IC 4-21.5; or
 9 (2) any other statute that requires or allows the office to take
 10 action.

11 ~~(b) Notwithstanding anything in this chapter or any other statute to~~
 12 ~~the contrary:~~

- 13 ~~(1) the office shall not be considered the ultimate authority in any~~
 14 ~~administrative proceeding; and~~
 15 ~~(2) a decision by the office in an administrative proceeding is not~~
 16 ~~a final agency action;~~

17 ~~unless expressly designated by the agency. This subsection may not be~~
 18 ~~construed as preventing the rescission of an agency's delegation.~~

19 **(b) Except as provided in subsection (c), the office is the ultimate**
 20 **authority in any administrative proceeding under its jurisdiction.**
 21 **Judicial review under IC 4-21.5 shall be taken directly from a final**
 22 **decision of the office.**

23 **(c) The office is not the ultimate authority if:**

- 24 **(1) a particular agency or agency action is exempted under**
 25 **Indiana law; or**
 26 **(2) an agency is required by federal mandate, as a condition**
 27 **of federal funding, to conduct or render a final order in an**
 28 **adjudication.**

29 SECTION 3. IC 4-21.5-1-3 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 3. "Agency" means any
 31 officer, board, commission, department division, bureau, or committee
 32 of state government that is responsible for any stage of a proceeding
 33 under this article. ~~Except as provided in IC 4-21.5-7,~~ The term does not
 34 include the judicial department of state government, the legislative
 35 department of state government, or a political subdivision.

36 SECTION 4. IC 4-21.5-1-15 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 15. **Subject to**
 38 **IC 4-15-10.5-12, "ultimate authority" means:**

- 39 **(1) for an administrative proceeding under the office of**
 40 **administrative law proceedings, the office of administrative**
 41 **law proceedings; or**
 42 **(2) for any other purpose, an individual or panel of individuals**



1 in whom the final authority of an agency is vested by law or
2 executive order.

3 SECTION 5. IC 4-21.5-3-9, AS AMENDED BY P.L.13-2021,
4 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2024]: Sec. 9. (a) Except to the extent that a statute other than
6 this article limits an agency's discretion to select an administrative law
7 judge, the ultimate authority for an agency may:

- 8 (1) act as an administrative law judge;
9 (2) designate one (1) or more members of the ultimate authority
10 (if the ultimate authority is a panel of individuals) to act as an
11 administrative law judge; or
12 (3) before July 1, 2020, designate one (1) or more:
13 (A) attorneys licensed to practice law in Indiana; or
14 (B) persons who served as administrative law judges for a state
15 agency before January 1, 2014;
16 to act as an administrative law judge. After June 30, 2020, the
17 ultimate authority for an agency may request assignment of an
18 administrative law judge by the office of administrative law
19 proceedings.

20 A person designated under subdivision (3) is not required to be an
21 employee of the agency. A designation under subdivision (2) or (3)
22 may be made in advance of the commencement of any particular
23 proceeding for a generally described class of proceedings or may be
24 made for a particular proceeding. A general designation may provide
25 procedures for the assignment of designated individuals to particular
26 proceedings.

27 **(b) If the case involves:**

- 28 **(1) adjudication of:**
29 **(A) air pollution control laws (as defined in IC 13-11-2-6);**
30 **(B) water pollution control laws (as defined in**
31 **IC 13-11-2-261);**
32 **(C) environmental management laws (as defined in**
33 **IC 13-11-2-71); or**
34 **(D) solid waste and hazardous waste management laws**
35 **under IC 13-19;**
36 **(2) rules of a board described in IC 13-14-9-1;**
37 **(3) the financial assurance board created by IC 13-23-11-1; or**
38 **(4) any agency action of the department of environmental**
39 **management;**

40 **the administrative law judge assigned by the office of**
41 **administrative law proceedings must meet the requirements listed**
42 **under subsection (c).**



1 **(c) An administrative law judge assigned under subsection (b)**
 2 **must:**

3 **(1) be a citizen of Indiana;**

4 **(2) be an attorney in good standing admitted to practice in**
 5 **Indiana;**

6 **(3) have at least five (5) years of experience practicing**
 7 **environmental or administrative law;**

8 **(4) be independent of the agency;**

9 **(5) meet the qualifications specific to environmental law as**
 10 **determined by the office of administrative law proceedings'**
 11 **training program; and**

12 **(6) be one (1) of three (3) administrative law judges in the**
 13 **office of administrative law proceedings designated to hear**
 14 **environmental matters.**

15 ~~(b) (d)~~ **An agency A person** may not knowingly assign an individual
 16 to serve alone or with others as an administrative law judge who is
 17 subject to disqualification under this chapter.

18 ~~(e)~~ **(e)** If the administrative law judge assigned to the proceeding
 19 believes that the judge's impartiality might reasonably be questioned,
 20 or believes that the judge's personal bias, prejudice, or knowledge of a
 21 disputed evidentiary fact might influence the decision, the
 22 administrative law judge shall:

23 (1) withdraw as the administrative law judge; or

24 (2) inform the parties of the potential basis for disqualification,
 25 place a brief statement of this basis on the record of the
 26 proceeding, and allow the parties an opportunity to petition for
 27 disqualification under subsection ~~(d)~~: **(f)**.

28 ~~(d)~~ **(f)** Any party to a proceeding may petition for the
 29 disqualification of an administrative law judge upon discovering facts
 30 establishing grounds for disqualification under this chapter. The
 31 administrative law judge assigned to the proceeding shall determine
 32 whether to grant the petition, stating facts and reasons for the
 33 determination.

34 ~~(e)~~ **(g)** If the administrative law judge ruling on the disqualification
 35 issue is not the ultimate authority, ~~for the agency~~; the party petitioning
 36 for disqualification may petition the ultimate authority, or, if the
 37 administrative law judge is employed or contracted with the office of
 38 administrative law proceedings, the director of the office of
 39 administrative law proceedings, in writing for review of the ruling
 40 within ten (10) days after notice of the ruling is served. The ultimate
 41 authority shall:

42 (1) conduct proceedings described by section 28 of this chapter;



- 1 or
 2 (2) request that the director of the office of administrative law
 3 proceedings conduct proceedings described by section 28 of this
 4 chapter;
 5 to review the petition and affirm, modify, or dissolve the ruling within
 6 thirty (30) days after the petition is filed. A determination by the
 7 ultimate authority or the director of the office of administrative law
 8 proceedings under this subsection is a final order subject to judicial
 9 review under IC 4-21.5-5.
- 10 ~~(f)~~ (h) If a substitute is required for an administrative law judge who
 11 is disqualified or becomes unavailable for any other reason, the
 12 substitute must be appointed in accordance with subsection (a).
- 13 ~~(g)~~ (i) Any action taken by a duly appointed substitute for a
 14 disqualified or unavailable administrative law judge is as effective as
 15 if taken by the latter.
- 16 ~~(h)~~ (j) If there is a reasonable likelihood that the ultimate authority
 17 will be called upon to:
 18 (1) review; or
 19 (2) issue a final order with respect to;
 20 a matter pending before or adjudicated by an administrative law judge,
 21 the provisions of section 11 of this chapter that apply to an
 22 administrative law judge or to a person communicating with an
 23 administrative law judge apply to a member of the ultimate authority
 24 and to a person communicating with a member of the ultimate
 25 authority.
- 26 SECTION 6. IC 4-21.5-3-10, AS AMENDED BY THE
 27 TECHNICAL CORRECTIONS BILL OF THE 2024 GENERAL
 28 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2024]: Sec. 10. (a) An administrative law judge is subject to
 30 disqualification for:
 31 (1) bias, prejudice, or interest in the outcome of a proceeding;
 32 (2) failure to dispose of the subject of a proceeding in an orderly
 33 and reasonably prompt manner after a written request by a party;
 34 (3) unless waived or extended with the written consent of all
 35 parties or for good cause shown, failure to issue an order not later
 36 than ninety (90) days after the latest of:
 37 (A) the filing of a motion to dismiss or a motion for summary
 38 judgment under section 23 of this chapter that is filed after
 39 June 30, 2011;
 40 (B) the conclusion of a hearing that begins after June 30, 2011;
 41 or
 42 (C) the completion of any schedule set for briefing or for



1 submittal of proposed findings of fact and conclusions of law
2 for a disposition under clauses (A) or (B); or

3 (4) any cause for which a judge of a court may be disqualified.
4 Before July 1, 2020, nothing in this subsection prohibits an individual
5 who is an employee of an agency from serving as an administrative law
6 judge.

7 (b) This subsection does not apply to a proceeding concerning a
8 regulated occupation (as defined in IC 25-1-7-1), except for a
9 proceeding concerning a water well driller (as described in IC 25-39-3)
10 or an out of state mobile health care entity regulated by the Indiana
11 department of health. An individual who is disqualified under
12 subsection (a)(2) or (a)(3) shall provide the parties a list of at least
13 three (3) special administrative law judges who meet the requirements
14 of:

15 (1) ~~IC 4-21.5-7-6, if the case is pending in the office of~~
16 ~~environmental adjudication;~~

17 **(1) section 9(c) of this chapter, if the case involves an**
18 **environmental matter described in section 9(b) of this**
19 **chapter;**

20 (2) IC 14-10-2-2, if the case is pending before the division of
21 hearings of the natural resources commission; or

22 (3) subject to subsection (d), any other statute or rule governing
23 qualification to serve an agency other than those described in
24 subdivision (1) or (2).

25 Subject to subsection (c), the parties may agree to the selection of one
26 (1) individual from the list.

27 (c) If the parties do not agree to the selection of an individual as
28 provided in subsection (b) not later than ten (10) days after the parties
29 are provided a list of judges under subsection (b), a special
30 administrative law judge who meets the requirements of subsection (b)
31 shall be selected under the procedure set forth in Trial Rule 79(D).
32 ~~79(E), or 79(F).~~

33 (d) This subsection applies after June 30, 2020, to an agency whose
34 proceedings are subject to the jurisdiction of the office of
35 administrative law proceedings. If an administrative law judge is
36 disqualified under this section, the director of the office of
37 administrative law proceedings shall assign another administrative law
38 judge.

39 SECTION 7. IC 4-21.5-3-27 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 27. (a) If the
41 administrative law judge is the ultimate authority for the agency, the
42 ultimate authority's order disposing of a proceeding is a final order. If



1 the administrative law judge is not the ultimate authority, the
2 administrative law judge's order disposing of the proceeding becomes
3 a final order when affirmed under section 29 of this chapter. Regardless
4 of whether the order is final, it must comply with this section.

5 (b) This subsection applies only to an order not subject to subsection
6 (c). The order must include, separately stated, findings of fact for all
7 aspects of the order, including the remedy prescribed and, if applicable,
8 the action taken on a petition for stay of effectiveness. Findings of
9 ultimate fact must be accompanied by a concise statement of the
10 underlying basic facts of record to support the findings. The order must
11 also include a statement of the available procedures and time limit for
12 seeking administrative review of the order (if administrative review is
13 available) **and the procedures and time limits for seeking judicial**
14 **review of the order under IC 4-21.5-5.**

15 (c) This subsection applies only to an order of the ultimate authority
16 entered under IC 13, IC 14, or IC 25. The order must include separately
17 stated findings of fact and, if a final order, conclusions of law for all
18 aspects of the order, including the remedy prescribed and, if applicable,
19 the action taken on a petition for stay of effectiveness. Findings of
20 ultimate fact must be accompanied by a concise statement of the
21 underlying basic facts of record to support the findings. Conclusions of
22 law must consider prior final orders (other than negotiated orders) of
23 the ultimate authority under the same or similar circumstances if those
24 prior final orders are raised on the record in writing by a party and must
25 state the reasons for deviations from those prior orders. The order must
26 also include a statement of the available procedures and time limit for
27 seeking administrative review of the order (if administrative review is
28 available) **and the procedures and time limits for seeking judicial**
29 **review of the order under IC 4-21.5-5.**

30 (d) Findings must be based exclusively upon the evidence of record
31 in the proceeding and on matters officially noticed in that proceeding.
32 Findings must be based upon the kind of evidence that is substantial
33 and reliable. The administrative law judge's experience, technical
34 competence, and specialized knowledge may be used in evaluating
35 evidence.

36 (e) A substitute administrative law judge may issue the order under
37 this section upon the record that was generated by a previous
38 administrative law judge.

39 (f) The administrative law judge may allow the parties a designated
40 amount of time after conclusion of the hearing for the submission of
41 proposed findings.

42 (g) An order under this section shall be issued in writing within



1 ninety (90) days after conclusion of the hearing or after submission of
 2 proposed findings in accordance with subsection (f), unless this period
 3 is waived or extended with the written consent of all parties or for good
 4 cause shown.

5 (h) The administrative law judge shall have copies of the order
 6 under this section delivered to each party and to the ultimate authority
 7 for the agency (if it is not rendered by the ultimate authority).

8 SECTION 8. IC 4-21.5-3-27.5, AS AMENDED BY P.L.249-2023,
 9 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2024]: Sec. 27.5. **(a)** In a proceeding under this chapter
 11 concerning an agency action, the administrative law judge shall order
 12 the agency to pay the reasonable attorney's fees incurred in the
 13 proceeding by the prevailing party challenging the agency action if:

14 (1) the party challenging the agency action proves, by a
 15 preponderance of the evidence, that:

16 (A) the agency's action was frivolous or groundless; or

17 (B) the agency pursued the action in bad faith;

18 (2) the agency action was ~~based on an invalid~~ **unsupported by a**
 19 **rule or a statute**, as provided in IC 4-22-2-44; or

20 (3) the agency has failed to demonstrate that the agency acted
 21 within its legal authority.

22 **(b) Except as provided in subsection (c), in a judicial review**
 23 **proceeding, the court shall order the agency to pay the other**
 24 **party's reasonable attorney's fees if:**

25 **(1) the party prevailed before an administrative law judge;**

26 **(2) the agency initiated the proceeding for judicial review;**
 27 **and**

28 **(3) the party prevailed in the judicial review proceeding.**

29 **(c) In a judicial review proceeding, the court may not award**
 30 **attorney's fees against an agency under this section if:**

31 **(1) the agency's only involvement in the case resulted from the**
 32 **agency's role as an arbiter of the legal rights, duties,**
 33 **immunities, privileges, or other legal interests of two (2) or**
 34 **more parties; or**

35 **(2) the position of the agency as a party became unjustified as**
 36 **a result of an intervening change in applicable law.**

37 SECTION 9. IC 4-21.5-3-29 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 29. (a) This section
 39 does not apply if the administrative law judge issuing an order under
 40 section 27 of this chapter is the ultimate authority for the agency.

41 (b) After an administrative law judge issues ~~an~~ **a nonfinal** order
 42 under section 27 of this chapter, the ultimate authority or its designee



- 1 shall issue: ~~a final order:~~
- 2 (1) **a final order** affirming **the administrative law judge's**
- 3 **order;**
- 4 (2) **a final order** modifying **the administrative law judge's**
- 5 **order;** or
- 6 (3) ~~dissolving; the administrative law judge's order. The ultimate~~
- 7 ~~authority or its designee may remand an order remanding~~ the
- 8 matter, with or without instructions, to an administrative law
- 9 judge for further proceedings.
- 10 (c) In the absence of an objection or notice under subsection (d) or
- 11 (e), ~~the ultimate authority or its designee shall affirm the order. The~~
- 12 **order is final and the agency issuing the nonfinal order shall issue**
- 13 **a notice of final order within thirty (30) days after the deadline to**
- 14 **file a notice under subsection (e).**
- 15 (d) To preserve an objection to an order of an administrative law
- 16 judge for judicial review, a party must not be in default under this
- 17 chapter and must object to the order in a writing that:
- 18 (1) identifies the basis of the objection with reasonable
- 19 particularity; and
- 20 (2) is filed with the ultimate authority responsible for reviewing
- 21 the order.
- 22 **The written objection must be served on all parties and the agency**
- 23 **issuing the nonfinal order** within fifteen (15) days (or any longer
- 24 period set by statute) after the order is served on the petitioner.
- 25 (e) Without an objection under subsection (d), the ultimate authority
- 26 or its designee may serve written notice of its intent to review any issue
- 27 related to the order. The notice shall be served on all parties, **the**
- 28 **agency issuing the nonfinal order**, and all other persons described by
- 29 section 5(d) of this chapter **within sixty (60) days after the nonfinal**
- 30 **order is served on the parties.** The notice **of intent to review** must
- 31 identify the issues that the ultimate authority or its designee intends to
- 32 review.
- 33 (f) A final order disposing of a proceeding or an order remanding an
- 34 order to an administrative law judge for further proceedings shall be
- 35 issued within sixty (60) days after the latter of:
- 36 (1) the date that the order was issued under section 27 of this
- 37 chapter;
- 38 (2) the receipt of briefs; or
- 39 (3) the close of oral argument;
- 40 unless the period is waived or extended with the written consent of all
- 41 parties or for good cause shown.
- 42 (g) After remand of an order under this section to an administrative



1 law judge, the judge's order is also subject to review under this section.

2 SECTION 10. IC 4-21.5-3-31 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 31. (a) An agency
 4 **ultimate authority** has jurisdiction to modify a final order under this
 5 section before the earlier of the following:

6 (1) Thirty (30) days after the agency has served the final order
 7 under section 27, 29, or 30 of this chapter.

8 (2) Another agency assumes jurisdiction over the final order
 9 under section 30 of this chapter.

10 (3) A court assumes jurisdiction over the final order under
 11 IC 4-21.5-5.

12 (b) A party may petition the ultimate authority for an agency for a
 13 stay of effectiveness of a final order. The ultimate authority or its
 14 designee may, before or after the order becomes effective, stay the final
 15 order in whole or in part.

16 (c) A party may petition the ultimate authority for an agency for a
 17 rehearing of a final order. The ultimate authority or its designee may
 18 grant a petition for rehearing only if the petitioning party demonstrates
 19 that:

20 (1) the party is not in default under this chapter;

21 (2) newly discovered material evidence exists; and

22 (3) the evidence could not, by due diligence, have been
 23 discovered and produced at the hearing in the proceeding.

24 The rehearing may be limited to the issues directly affected by the
 25 newly discovered evidence. If the rehearing is conducted by a person
 26 other than the ultimate authority, section 29 of this chapter applies to
 27 review of the order resulting from the rehearing.

28 (d) Clerical mistakes and other errors resulting from oversight or
 29 omission in a final order or other part of the record of a proceeding may
 30 be corrected by an ultimate authority or its designee on the motion of
 31 any party or on the motion of the ultimate authority or its designee.

32 (e) An action of a petitioning party or an agency under this section
 33 neither tolls the period in which a party may object to a second agency
 34 under section 30 of this chapter nor tolls the period in which a party
 35 may petition for judicial review under IC 4-21.5-5. However, if a
 36 rehearing is granted under subsection (c), these periods are tolled and
 37 a new period begins on the date that a new final order is served.

38 SECTION 11. IC 4-21.5-5-11 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 11. (a) Judicial review
 40 of disputed issues of fact must be confined to the agency record for the
 41 agency action supplemented by additional evidence taken under section
 42 12 of this chapter. ~~The court may not try the cause de novo or substitute~~



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its judgment for that of the agency:

(b) The court shall decide all questions of law, including any interpretation of a federal or state constitutional provision, state statute, or agency rule, without deference to any previous interpretation made by the agency.

SECTION 12. IC 4-21.5-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 13. (a) ~~Within Not later than~~ thirty (30) days:

- (1) after the filing of the petition, if the petitioner is the agency;**
- or**
- (2) after service of the petition, if the petitioner is not the agency;**

or within further time allowed by the court or by other law, the ~~petitioner~~ **office or ultimate authority** shall transmit to the court the original or a certified copy of the agency record for judicial review of the agency action.

~~(b) consisting~~ **The record consists of:**

- (1) any agency documents expressing the agency action;
- (2) other documents identified by the agency as having been considered by it before its action and used as a basis for its action; and
- (3) any other material described in this article as the agency record for the type of agency action at issue, subject to this section.

~~(b)~~ **(c) An extension of time in which to file the record shall be granted by the court for good cause shown. Inability to obtain the record from the responsible agency within the time permitted by this section is good cause.** Failure to file the record within the time permitted by this subsection, including any extension period ordered by the court, is cause for dismissal of the petition for review by the court, **unless good cause is shown** on its own motion, or on petition of any party of record to the proceeding. **The inability to obtain the record from the office or ultimate authority within the time permitted by this section is good cause.**

~~(c)~~ **(d) Upon a written request by the petitioner, the agency taking the action being reviewed shall prepare the agency record for the petitioner.** If part of the record has been preserved without a transcript, the agency shall prepare a transcript for inclusion in the record transmitted to the court, except for portions that the parties to the judicial review proceeding stipulate to omit in accordance with subsection ~~(e)~~. **(f).**

~~(d)~~ **(e) Notwithstanding IC 5-14-3-8, the agency shall charge the**



1 petitioner with the reasonable cost of preparing any necessary copies
 2 and transcripts for transmittal to the court, unless a person files with the
 3 court, under oath and in writing, the statement described by
 4 IC 33-37-3-2.

5 ~~(e)~~ (f) By stipulation of all parties to the review proceedings, the
 6 record may be shortened, summarized, or organized.

7 ~~(f)~~ (g) The court may tax the cost of preparing transcripts and copies
 8 for the record:

9 (1) against a party to the judicial review proceeding who
 10 unreasonably refuses to stipulate to shorten, summarize, or
 11 organize the record; or

12 (2) in accordance with the rules governing civil actions in the
 13 courts or other law.

14 ~~(g)~~ (h) Additions to the record concerning evidence received under
 15 section 12 of this chapter must be made as ordered by the court. The
 16 court may require or permit subsequent corrections or additions to the
 17 record.

18 SECTION 13. IC 4-21.5-7 IS REPEALED [EFFECTIVE JULY 1,
 19 2024]. (Environmental Adjudication).

20 SECTION 14. IC 4-22-2-19.6, AS ADDED BY P.L.249-2023,
 21 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2024]: Sec. 19.6. (a) A rule adopted under this article or
 23 IC 13-14-9 that includes a fee, fine, or civil penalty must comply with
 24 this section. Subsections (b), (c), and (d) do not apply to a rule that
 25 must be adopted in a certain form to comply with federal law.

26 (b) For each fee, fine, or civil penalty imposed by an agency that is
 27 not set as a specific amount in a state law, a rule must describe the
 28 circumstances for which the agency will assess a fee, fine, or civil
 29 penalty and set forth the amount of the fee, fine, or civil penalty:

30 (1) as a specific dollar amount;

31 (2) under a formula by which a specific dollar amount can be
 32 reasonably calculated by persons regulated or otherwise affected
 33 by the rule; or

34 (3) as a range of potential dollar amounts, stating the factors that
 35 the agency will utilize to set a specific dollar amount in an
 36 individual case with sufficient certainty that a review of an agency
 37 action under IC 4-21.5 or comparable process can evaluate
 38 whether the amount was reasonable.

39 A rule concerning fines or civil penalties does not prohibit an agency
 40 to enter into a settlement agreement with a person against whom a fine
 41 or civil penalty is being assessed to determine the fine or civil penalty
 42 to be paid for a violation.



1 (c) The amount of a fee must be reasonably based on the amount
2 necessary to carry out the purposes for which the fee is imposed.

3 (d) An agency setting a fine or civil penalty shall consider the
4 following:

5 (1) Whether the violation has a major or minor impact on the
6 health, safety, or welfare of a person, the health or safety of
7 animals or natural resources, or other facts set forth in the
8 agency's rule.

9 (2) The number of previous violations committed by the offender
10 of laws, rules, or programs administered by the agency.

11 (3) The need for deterrence of future violations.

12 (4) Whether the conduct, if proved beyond a reasonable doubt,
13 would constitute a criminal offense, and the level of penalty set by
14 law for the criminal offense.

15 (e) An agency is not liable for a fee, fine, or civil penalty that is not
16 in conformity with this section if:

17 (1) the fee, fine, or civil penalty was included in a rule that
18 became effective before January 1, 2023, and that otherwise
19 complies with subsection (b);

20 (2) the fee, fine, or civil penalty was:

21 (A) set by an agency before January 1, 2023;

22 (B) reviewed by the budget committee:

23 (i) in the case of the department of environmental
24 management, the boards listed in IC 13-14-9-1, ~~the office of~~
25 ~~environmental adjudication~~, the natural resources
26 commission, the department of natural resources, the
27 Indiana gaming commission, and the Indiana horse racing
28 commission, before December 31, 2023; and

29 (ii) in the case of an agency not described in item (i), before
30 July 1, 2024; and

31 (C) included in a rule that complies with this section and
32 becomes effective before:

33 (i) in the case of the department of environmental
34 management, the boards listed in IC 13-14-9-1, ~~the office of~~
35 ~~environmental adjudication~~, the natural resources
36 commission, the department of natural resources, the
37 Indiana gaming commission, and the Indiana horse racing
38 commission, December 31, 2024; and

39 (ii) in the case of an agency not described in item (i), July 1,
40 2025; or

41 (3) the agency withdraws or otherwise ceases to enforce or apply
42 the fee, fine, or civil penalty before:



1 (A) in the case of the department of environmental
 2 management, the boards listed in IC 13-14-9-1, ~~the office of~~
 3 ~~environmental adjudication~~, the natural resources commission,
 4 the department of natural resources, the Indiana gaming
 5 commission, and the Indiana horse racing commission,
 6 December 31, 2023; and

7 (B) in the case of an agency not described in clause (A), July
 8 1, 2024.

9 Readoption without changes under IC 4-22-2.6 of a nonconforming fee,
 10 fine, or civil penalty that meets the requirements of subdivision (1) or
 11 (2) does not invalidate the nonconforming fee, fine, or civil penalty.

12 (f) Beginning January 1, 2024, an agency shall post on its website
 13 a schedule of fines and civil penalties that apply to violations of laws,
 14 rules, and requirements of federal programs administered by the
 15 agency.

16 SECTION 15. IC 13-14-8-11 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 11. (a) A person
 18 affected by a decision of the commissioner under sections 8 and 9 of
 19 this chapter may, within fifteen (15) days after receipt of notice of the
 20 decision, appeal the decision to the office of ~~environmental~~
 21 ~~adjudication~~ **administrative law proceedings**. All proceedings under
 22 this section to appeal the commissioner's decision are governed by
 23 IC 4-21.5.

24 (b) The commissioner's decision to grant a variance does not take
 25 effect until available administrative remedies are exhausted.

26 SECTION 16. IC 13-15-6-1 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1. (a) Not later than
 28 fifteen (15) days after being served the notice provided by the
 29 commissioner under IC 13-15-5-3:

30 (1) the permit applicant; or

31 (2) any other person aggrieved by the commissioner's action;

32 may appeal the commissioner's action to the office of ~~environmental~~
 33 ~~adjudication~~ **administrative law proceedings** and request that an
 34 ~~environmental~~ **administrative** law judge hold an adjudicatory hearing
 35 concerning the action under IC 4-21.5-3 and ~~IC 4-21.5-7~~ **IC 4-15-10.5**.

36 (b) Notwithstanding subsection (a) and IC 4-21.5-3-7(a)(3), a person
 37 may file an appeal of the commissioner's action in issuing an initial
 38 permit under the operating permit program under 42 U.S.C. 7661
 39 through 7661f not later than thirty (30) days after the date the person
 40 received the notice provided under IC 13-15-5-3, for a permit issued
 41 after April 30, 1999.

42 SECTION 17. IC 13-15-6-3 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 3. (a) Not later than
 2 thirty (30) days after being served a request for an adjudicatory hearing,
 3 an ~~environmental~~ **administrative** law judge under ~~IC 4-21.5-7~~
 4 **IC 4-15-10.5** shall, if the ~~environmental~~ **administrative** law judge
 5 determines that:

6 (1) the request was properly submitted; and
 7 (2) the request establishes a jurisdictional basis for a hearing;
 8 assign the matter for a hearing.

9 (b) Upon assigning the matter for a hearing, an ~~environmental~~
 10 **administrative** law judge may stay the force and effect of the
 11 following:

12 (1) A contested permit provision.

13 (2) A permit term or condition the ~~environmental~~ **administrative**
 14 law judge considers inseverable from a contested permit
 15 provision.

16 (c) After a final hearing under this section, a final order of an
 17 ~~environmental~~ **administrative** law judge on a permit application is
 18 subject to review under IC 4-21.5-5.

19 SECTION 18. IC 13-15-7-3 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 3. A person aggrieved
 21 by the revocation or modification of a permit may appeal the revocation
 22 or modification to the office of ~~environmental adjudication~~
 23 **administrative law proceedings** for an administrative review under
 24 IC 4-21.5-3. Pending the decision resulting from the hearing under
 25 IC 4-21.5-3 concerning the permit revocation or modification, the
 26 permit remains in force. However, the commissioner may seek
 27 injunctive relief with regard to the activity described in the permit
 28 while the decision resulting from the hearing is pending.

29 SECTION 19. IC 13-17-3-7 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 7. (a) The
 31 commissioner may enter into agreed orders as provided in
 32 IC 13-30-3-6.

33 (b) An ~~environmental~~ **administrative** law judge under ~~IC 4-21.5-7~~
 34 **IC 4-15-10.5** shall review orders and determinations of the
 35 commissioner.

36 SECTION 20. IC 13-17-6-10 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 10. (a) If the
 38 commissioner finds that an asbestos project is not being performed in
 39 accordance with air pollution control laws or rules adopted under air
 40 pollution control laws, the commissioner may enjoin further work on
 41 the asbestos project without prior notice or hearing by delivering a
 42 notice to:



- 1 (1) the asbestos contractor engaged in the asbestos project; or
- 2 (2) the agent or representative of the asbestos contractor.
- 3 (b) A notice issued under this section must:
- 4 (1) specifically enumerate the violations of law that are occurring
- 5 on the asbestos project; and
- 6 (2) prohibit further work on the asbestos project until the
- 7 violations enumerated under subdivision (1) cease and the notice
- 8 is rescinded by the commissioner.
- 9 (c) Not later than ten (10) days after receiving written notification
- 10 from a contractor that violations enumerated in a notice issued under
- 11 this section have been corrected, the commissioner shall issue a
- 12 determination whether or not to rescind the notice.
- 13 (d) An asbestos contractor or any other person aggrieved or
- 14 adversely affected by the issuance of a notice under subsection (a) may
- 15 obtain a review of the commissioner's action under IC 4-21.5 and
- 16 ~~IC 4-21.5-7~~ **IC 4-15-10.5**.
- 17 SECTION 21. IC 13-18-3-4 IS AMENDED TO READ AS
- 18 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 4. (a) The
- 19 commissioner may enter into agreed orders as provided in
- 20 IC 13-30-3-6.
- 21 (b) ~~An environmental administrative law judge under IC 4-21.5-7~~
- 22 **IC 4-15-10.5** shall review orders and determinations of the
- 23 commissioner.
- 24 SECTION 22. IC 13-18-11-8, AS AMENDED BY P.L.159-2011,
- 25 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 26 JULY 1, 2024]: Sec. 8. (a) The commissioner may suspend or revoke
- 27 the certificate of an operator issued under this chapter, following a
- 28 hearing under IC 13-15-7-3 and IC 4-21.5, if any of the following
- 29 conditions are found:
- 30 (1) The operator has practiced fraud or deception in any state or
- 31 other jurisdiction.
- 32 (2) Reasonable care, judgment, or the application of the operator's
- 33 knowledge or ability was not used in the performance of the
- 34 operator's duties.
- 35 (3) The operator is incompetent or unable to properly perform the
- 36 operator's duties.
- 37 (4) A certificate of the operator issued:
- 38 (A) under this chapter; or
- 39 (B) by any other state or jurisdiction for a purpose comparable
- 40 to the purpose for which a certificate is issued under this
- 41 chapter;
- 42 has been revoked.



1 (5) The operator has been convicted of a crime related to a
2 certificate of the operator issued:

3 (A) under this chapter; or

4 (B) by any other state or jurisdiction for a purpose comparable
5 to the purpose for which a certificate is issued under this
6 chapter.

7 (b) A hearing and further proceedings shall be conducted in
8 accordance with ~~IC 4-21.5-7~~. **IC 4-15-10.5.**

9 SECTION 23. IC 13-19-3-2 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2. (a) The
11 commissioner may enter into agreed orders as provided in
12 IC 13-30-3-6.

13 (b) An ~~environmental~~ **administrative** law judge under ~~IC 4-21.5-7~~
14 **IC 4-15-10.5** shall review orders and determinations of the
15 commissioner.

16 SECTION 24. IC 13-20-13-5.5, AS AMENDED BY P.L.263-2013,
17 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2024]: Sec. 5.5. (a) A certificate of registration issued by the
19 department under this chapter may be revoked or modified by the
20 commissioner, or by a designated staff member of the department, after
21 notification in writing is sent in accordance with IC 13-14-2-1 to the
22 holder of the certificate for:

23 (1) failure to disclose all relevant facts;

24 (2) making a misrepresentation in obtaining the registration; or

25 (3) failure to correct, within the time established by the
26 department:

27 (A) a violation of a condition of the registration; or

28 (B) a violation of this chapter or a rule adopted by the board
29 under section 11 of this chapter.

30 (b) A person aggrieved by the revocation or modification of a
31 certificate of registration may appeal the revocation or modification to
32 the office of ~~environmental adjudication~~ **administrative law**
33 **proceedings** under ~~IC 4-21.5-7~~. **IC 4-15-10.5.** Pending the decision
34 resulting from a hearing under IC 4-21.5-3 concerning the revocation
35 or modification, the registration remains in force. However, subsequent
36 to revocation or modification, the commissioner may seek injunctive
37 relief concerning the activity described in the registration.

38 SECTION 25. IC 13-20-14-5.6, AS AMENDED BY P.L.263-2013,
39 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2024]: Sec. 5.6. (a) A certificate of registration issued by the
41 department under this chapter may be revoked or modified by the
42 commissioner, or by a designated staff member of the department, after



1 notification in writing is sent in accordance with IC 13-14-2-1 to the
2 holder of the certificate, for:

- 3 (1) failure to disclose all relevant facts;
4 (2) making a misrepresentation in obtaining the registration; or
5 (3) failure to correct, within the time established by the
6 department, a violation of:
7 (A) a condition of the registration;
8 (B) this chapter; or
9 (C) a rule adopted by the board under section 6 of this chapter.

10 (b) A person aggrieved by the revocation or modification of a
11 certificate of registration may appeal the revocation or modification to
12 the office of ~~environmental adjudication~~ **administrative law**
13 **proceedings** under ~~IC 4-21.5-7~~ **IC 4-15-10.5**. Pending the decision
14 resulting from a hearing under IC 4-21.5-3 concerning the revocation
15 or modification, the registration remains in force. However, subsequent
16 to revocation or modification, the commissioner may seek injunctive
17 relief concerning the activity described in the registration.

18 SECTION 26. IC 13-23-9-4, AS AMENDED BY P.L.96-2016,
19 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2024]: Sec. 4. If the administrator denies an ELTF claim
21 under this chapter, the claimant may appeal the denial under IC 4-21.5
22 to the office of ~~environmental adjudication~~ **administrative law**
23 **proceedings** under ~~IC 4-21.5-7~~ **IC 4-15-10.5**.

24 SECTION 27. IC 13-24-1-4 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 4. (a) Except where an
26 owner or operator can prove that a release from a petroleum facility
27 was caused by:

- 28 (1) an act of God;
29 (2) an act of war;
30 (3) negligence on the part of a local government, the state
31 government, or the federal government;
32 (4) except as provided in subsection (b), an act or omission of a
33 responsible person; or
34 (5) a combination of the causes set forth in subdivisions (1)
35 through (4);

36 the owner or operator is liable to the state for the reasonable costs of
37 any response or remedial action taken under section 2 of this chapter
38 involving the petroleum facility. A responsible person is liable to the
39 state for the reasonable costs of any response or remedial action taken
40 under section 2 of this chapter involving the petroleum facility.

41 (b) The owner, operator, or responsible person is entitled to all
42 rights of the state to recover from another responsible person all or a



1 part of the costs described in subsection (a) incurred or paid to the state
2 by the owner, operator, or responsible person in an action brought in a
3 circuit or superior court with jurisdiction in the county in which the
4 release occurred.

5 (c) Money recovered by the state under this section in connection
6 with a removal or remedial action undertaken with respect to a release
7 of petroleum shall be deposited in the hazardous substances response
8 trust fund.

9 (d) The state may recover removal or remedial action costs under
10 this section as follows:

- 11 (1) Commence an action under IC 13-14-2-6 or IC 13-14-2-7.
- 12 (2) Impose a lien under IC 13-25-4-11 on the property on which
13 the removal or the remedial action was undertaken.

14 (e) In an administrative action brought under this chapter, an
15 ~~environmental~~ **administrative** law judge shall apportion the costs of
16 a response or a remedial action in proportion to each party's
17 responsibility for a release.

18 SECTION 28. IC 13-25-4-20 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 20. (a) Before the date
20 on which the state intends to impose a lien on real property under
21 section 11 of this chapter, the owner of the real property may request
22 that a hearing be conducted under IC 4-21.5. A hearing conducted
23 under this section and IC 4-21.5 shall be limited to determining if there
24 is probable cause to believe that:

- 25 (1) a removal or a remedial action was conducted on the real
26 property under:
 - 27 (A) this chapter; or
 - 28 (B) IC 13-24-1; and
- 29 (2) if the removal or the remedial action was conducted under this
30 chapter, the owner of the real property would be subject to
31 liability under 42 U.S.C. 9607 (Section 107 of the federal
32 Comprehensive Environmental Response, Compensation, and
33 Liability Act).

34 (b) For the purposes of a hearing conducted under this section and
35 IC 4-21.5, an ~~environmental~~ **administrative** law judge is the ultimate
36 authority.

37 SECTION 29. IC 13-30-3-5 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 5. (a) Except as
39 otherwise provided in:

- 40 (1) a notice issued under section 4 of this chapter; or
 - 41 (2) a law relating to emergency orders;
- 42 an order of the commissioner under this chapter takes effect twenty



1 (20) days after the alleged violator receives the notice, unless the
 2 alleged violator requests under subsection (b) a review of the order
 3 before the twentieth day after receiving the notice.

4 (b) To request a review of the order, the alleged violator must:

5 (1) file a written request with the office of ~~environmental~~
 6 ~~adjudication~~ **administrative law proceedings** under ~~IC 4-21.5-7;~~
 7 **IC 4-15-10.5**; and

8 (2) serve a copy of the request on the commissioner.

9 (c) If a review of an order is requested under this section, the office
 10 of ~~environmental adjudication~~ **administrative law proceedings**
 11 established under ~~IC 4-21.5-7~~ **IC 4-15-10.5** shall review the order
 12 under IC 4-21.5.

13 SECTION 30. IC 13-30-3-6 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 6. If an alleged violator
 15 who has requested a review of an order of the commissioner under
 16 section 5 of this chapter agrees to resolve the controversy concerning
 17 the order in a manner satisfactory to the commissioner before a final
 18 order is issued by the office of ~~environmental adjudication;~~
 19 **administrative law proceedings**, the commissioner may approve an
 20 agreed order based on the agreement.

21 SECTION 31. IC 13-30-3-7 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 7. A final order of an
 23 ~~environmental~~ **administrative** law judge is subject to judicial review
 24 under IC 4-21.5-5.

25 SECTION 32. IC 14-10-2-2.5, AS ADDED BY P.L.84-2008,
 26 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2024]: Sec. 2.5. (a) A person who is the party in a hearing
 28 under this title or ~~IC 4-21.5-7~~ **IC 4-15-10.5** may move to have the:

29 (1) ~~environmental~~ **administrative** law judge appointed under
 30 ~~IC 4-21.5-7;~~ **IC 4-15-10.5**; or

31 (2) administrative law judge appointed under section 2 of this
 32 chapter;

33 consolidate multiple proceedings that are subject to the jurisdiction of
 34 both the office of ~~environmental adjudication~~ **administrative law**
 35 **proceedings** and the division of hearings.

36 (b) ~~The environmental law judge or the An~~ administrative law judge
 37 shall grant the motion made under subsection (a) if the following
 38 findings are made:

39 (1) The proceedings include the following:

40 (A) Common questions of law or fact.

41 (B) At least one (1) person, other than the department or the
 42 department of environmental management, who is a party to



1 all the proceedings.
 2 (C) Issues of water quality, water quantity, or both.
 3 (2) Consolidation may support administrative efficiency.
 4 (c) If a motion to consolidate proceedings has been granted under
 5 subsection (b), the hearing must be conducted by a panel that consists
 6 of at least ~~one (1) environmental law judge and one (1) two (2)~~
 7 administrative law ~~judge.~~ **judges.** The panel is the ultimate authority
 8 for matters authorized under IC 4-21.5-7-5 and this title. Any party,
 9 including the department and the department of environmental
 10 management, may petition an appropriate court for judicial review of
 11 a final determination of the panel.
 12 (d) The office of ~~environmental adjudication~~ **administrative law**
 13 **proceedings** and the division of hearings shall adopt joint rules to
 14 implement this section.
 15 SECTION 33. IC 14-34-2-2, AS AMENDED BY P.L.84-2008,
 16 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2024]: Sec. 2. (a) The commission shall appoint the following:
 18 (1) An administrative law judge to conduct proceedings under
 19 IC 4-21.5. An administrative law judge is subject to IC 14-10-2-2.
 20 (2) A hearing officer to conduct proceedings under IC 4-22-2.
 21 (b) An administrative law judge is the ultimate authority for the
 22 department for any administrative review proceeding under this article,
 23 except for the following:
 24 (1) Proceedings concerning the approval or disapproval of a
 25 permit application or permit renewal under IC 14-34-4-13.
 26 (2) Proceedings for suspension or revocation of a permit under
 27 IC 14-34-15-7.
 28 (3) Proceedings consolidated with the office of ~~environmental~~
 29 ~~adjudication~~ **administrative law proceedings** under
 30 IC 14-10-2-2.5.
 31 (c) An order made by an administrative law judge granting or
 32 denying temporary relief from a decision of the director is a final order
 33 of the department.
 34 (d) Judicial review of a final order made by an administrative law
 35 judge under subsection (b) or (c) or under IC 13-4.1-2-1(c) or
 36 IC 13-4.1-2-1(d) (before their repeal) may be taken under IC 4-21.5-5.
 37 SECTION 34. [EFFECTIVE JULY 1, 2024] (a) **As used in this**
 38 **SECTION, "office" means the office of environmental adjudication**
 39 **established under IC 4-21.5-7.**
 40 (b) **As used in this SECTION, "office of administrative law**
 41 **proceedings" means the office of administrative law proceedings**
 42 **established under IC 4-15-10.5.**



1 (c) On July 1, 2024, all agreements and liabilities of the office
2 are transferred to the office of administrative law proceedings, as
3 the successor agency.

4 (d) On July 1, 2024, all records and property of the office,
5 including appropriations and other funds under the control or
6 supervision of the office, are transferred to the office of
7 administrative law proceedings, as the successor agency.

8 (e) After July 1, 2024, any amounts owed to the office before
9 July 1, 2024, are considered to be owed to the office of
10 administrative law proceedings, as the successor agency.

11 (f) After July 1, 2024, a reference to the office in a statute, rule,
12 or other document is considered a reference to the office of
13 administrative law proceedings, as the successor agency.

14 (g) After July 1, 2024, a reference to an environmental law
15 judge is considered a reference to an administrative law judge
16 under IC 4-15-10.5.

17 (h) All powers, duties, agreements, and liabilities of the office
18 with respect to bonds issued by the office in connection with any
19 trust agreement or indenture securing those bonds are transferred
20 to the office of administrative law proceedings, as the successor
21 agency.

22 (i) The director and employees of the office on June 30, 2024,
23 become employees of the office of administrative law proceedings
24 on July 1, 2024, without change in compensation, seniority, or
25 benefits, and are entitled to have their service under the office
26 included for purposes of computing any applicable employment
27 and retirement benefits.

28 (j) After July 1, 2024, all pending proceedings of the office are
29 transferred to the office of administrative law proceedings.

30 (k) Until the office of administrative law proceedings adopts or
31 amends rules related to environmental matters, the office must
32 continue to follow and implement rules under 315 IAC.

33 (l) The office of administrative law proceedings must continue
34 to index and make publicly available, in a substantially similar
35 online searchable format, the final orders of contested appeals
36 currently maintained by the office.

37 (m) This SECTION expires July 1, 2025.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1003, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, between lines 26 and 27, begin a new paragraph and insert:

"(b) If the case involves:

(1) adjudication of:

(A) air pollution control laws (as defined in IC 13-11-2-6);

(B) water pollution control laws (as defined in IC 13-11-2-261);

(C) environmental management laws (as defined in IC 13-11-2-71); or

(D) solid waste and hazardous waste management laws under IC 13-19;

(2) rules of a board described in IC 13-14-9-1;

(3) the financial assurance board created by IC 13-23-11-1; or

(4) any agency action of the department of environmental management;

the administrative law judge assigned by the office of administrative law proceedings must meet the requirements listed under subsection (c).

(c) An administrative law judge assigned under subsection (b) must:

(1) be a citizen of Indiana;

(2) be an attorney in good standing admitted to practice in Indiana;

(3) have at least five (5) years of experience practicing environmental or administrative law;

(4) be independent of the agency;

(5) meet the qualifications specific to environmental law as determined by the office of administrative law proceedings' training program; and

(6) be one (1) of three (3) administrative law judges in the office of administrative law proceedings designated to hear environmental matters."

Page 3, line 27, strike "(b)" and insert "(d)".

Page 3, line 30, strike "(c)" and insert "(e)".

Page 3, line 39, strike "(d)." and insert "(f)".

Page 3, line 40, strike "(d)" and insert "(f)".

Page 4, line 3, strike "(e)" and insert "(g)".

Page 4, line 21, strike "(f)" and insert "(h)".

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Page 4, line 24, strike "(g)" and insert "(i)".

Page 4, line 27, strike "(h)" and insert "(j)".

Page 5, between lines 27 and 28, begin a new line block indented and insert:

"(1) section 9(c) of this chapter, if the case involves an environmental matter described in section 9(b) of this chapter;".

Page 5, line 28, reset in roman "(2)".

Page 5, line 28, delete "(1)".

Page 5, line 30, reset in roman "(3)".

Page 5, line 30, delete "(2)".

Page 7, line 24, after "frivolous" delete ";".

Page 7, line 24, reset in roman "or groundless;".

Page 10, line 22, delete "agency" and insert "**office or ultimate authority**".

Page 10, line 35, delete "If the petitioner is the agency, failure" and insert "Failure".

Page 10, line 38, after "court," insert "**unless good cause is shown**".

Page 10, line 39, after "proceeding." insert "**The inability to obtain the record from the office or ultimate authority within the time permitted by this section is good cause.**".

Page 21, between lines 34 and 35, begin a new paragraph and insert:

"(k) Until the office of administrative law proceedings adopts or amends rules related to environmental matters, the office must continue to follow and implement rules under 315 IAC.

(l) The office of administrative law proceedings must continue to index and make publicly available, in a substantially similar online searchable format, the final orders of contested appeals currently maintained by the office."

Page 21, line 35, delete "(k)" and insert "(m)".

and when so amended that said bill do pass.

(Reference is to HB 1003 as introduced.)

JETER

Committee Vote: yeas 11, nays 0.

