



Administrative Hearings Office Fiscal Year 2024 Appropriation Request

Legislative Finance Committee

Chief Hearing Officer Brian VanDenzen

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Overview of the Administrative Hearings Office

- ▶ The Administrative Hearings Office conducts and adjudicates state administrative protest hearings under the Tax Administration Act, the Property Tax Code, the Motor Vehicle Code, the Implied Consent Act, and expedited proceedings under the Medicaid Provider and Managed Care Act.
- ▶ The Administrative Hearings Office has four main offices across the state: Santa Fe, Albuquerque, Clovis, and Las Cruces.
- ▶ The Administrative Hearings Office has 17 FTE.
 - ▶ 10 Administrative Law Judge/Hearing Officers (including the Chief Hearing Officer position)
 - ▶ 5 program support positions. Court Clerks and Paralegals.
 - ▶ 1 Chief Financial Officer position.
 - ▶ 1 vacant executive assistant position.



Work Accomplishments and Successes in FY22

Average annual case load per hearing officer position: 284 hearings in FY22.

1. Implied Consent Act, DWI license revocation hearings and other MVD hearings.

- ▶ In FY22, the Administrative Hearings Office conducted **2,624 Implied Consent Act-DWI hearings**.
- ▶ Only one case (0.04%) were rescinded due to Administrative Hearings Office error, satisfying the office's performance measure target of <0.5%.
- ▶ Our Implied Consent Act-DWI case load increased by 20% during the fiscal year, nearing pre-pandemic levels.

2. State Tax Protest Hearings pursuant to the Tax Administrative Act or Property Tax Code.

- ▶ In FY22, the Administrative Hearings Office received **185 new tax hearing requests & conducted 202 tax hearings**.
- ▶ The Administrative Hearings Office timely conducted every tax protest hearing in FY22, meeting our performance measure on this front.
- ▶ In the last three years of tax decision appeals, the Court of Appeals has upheld **AHO tax decisions 78%**

3. 19 administrative hearings for other agencies in FY22.

- ▶ 9 Board of Nursing cases
- ▶ 7 State Ethics Commission cases
- ▶ 2 CYFD hearings
- ▶ 1 Medical Board case.



Challenges In FY22

- ▶ In FY22, AHO faced significant unanticipated staffing losses and retention challenges.
 - ▶ AHO had to act quickly and aggressively to recruit and retain valuable employees, especially after the tragic and unexpected loss of a key employee in early September of 2021.
 - ▶ This meant AHO had to increase salaries upon recruitment to hire quality candidates and increase employee compensation to retain quality staff throughout the year as employees entertained other competitive offers in the tight labor market.
 - ▶ These efforts to hire staff and keep existing staff are the reason why our base budget costs in the category 200's have increased.
- ▶ Reversion. Largely attributable to two factors beyond AHO's reasonable control:
 - 1) When AHO conducts other agency hearings in the Q4 of the fiscal year, that money is not largely received until after the Bar Adjustment Request moratorium is in place, meaning that it cannot be adjusted into AHO's operating budget and simply reverts to the general fund at the end of the year.
 - 2) AHO had a substantial order for necessary new furniture to fit in its remodeled facility that was cancelled by the vendor late in the fiscal year, at a time when it was too late to find another vendor.



The Agency's FY2024 Budget Appropriation Request

▶ Base Budget Request:

- ▶ The Administrative Hearings Office's FY24 appropriation request seeks approximately a 5% increase in its base budget
 - ▶ Largely addresses the increased costs in the Category 200's to recruit and retain staffing given the competitive labor market.
 - ▶ Also addresses some increasing category 400 costs in the current inflationary economic climate.

▶ Expansion Request:

- ▶ AHO seeks a 12% expansion of funds in Category 200s to address:
 - ▶ Attorney Salary Competitiveness
 - ▶ Court Clerk Staff Competitiveness and Compaction



Attorney-Hearing Officer Salary Competitiveness

- ▶ Existing & Growing Attorney Salary Competitiveness Gap
 - ▶ *AHO Attorney-Hearing Officer Average Salary: \$99,371.70*
 - ▶ Relevant Comparisons:
 - ▶ *Tax & Rev Attorney Average Salary: \$109,587.76*
 - ▶ *2017 State Bar Association Statewide Average Lawyer Salary: \$142,383.00*
 - ▶ *Private Tax Attorney in Albuquerque with 7+ years of experience: \$188,309.00*
 - ▶ *Magistrate Court Judge/Child Support Hearing Officer: \$116,423.87*
- ▶ The tax attorney-hearing officers adjudicate tax cases involving hundreds of millions of dollars—these protest impact the state budget and business budgets.
- ▶ The Implied Consent Act-DWI hearing officers make decisions on DWI cases that impact public safety.
- ▶ Expansion seeks to raise salaries to match Tax & Rev Attorneys average salary.



Court Clerk Staff Salary Compaction and Competitiveness

- ▶ LFC August 17, 2022 Report on State Personnel Compensation twice highlighted that AHO is an agency with a high share of occupational schedule employees that did not receive a proportional corresponding allocation of general fund compared to other identified agencies the last compensation package.
- ▶ This has impacted our long-serving, dedication Court Clerk Staff.
 - ▶ Experienced, dedicated group that meets or exceed expectations year-after-year.
 - ▶ Their compensation has not kept pace compared to similar positions, including newer, less experienced hires, in state government.
 - ▶ This compensation/compaction issue creates an incentive for otherwise loyal, experienced, and excellent staff to look for other employment opportunities.
- ▶ **Example Case:** Chief Clerk Position, 20-year employee, in position for 15-years, always receives exemplary reviews. Yet position is in lower 1/3 of pay for all state employees, in her classification despite having much more experience than many newer hires.



Conclusion



- ▶ Answering your questions

