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INDEX DEPARTMENT

JUN 20 2018

IN THE OFFICE OF
SECRETARY OF STATE

EXECUTIVE ORDER

2018-08

**EXECUTIVE ORDER REFORMING THE ADMINISTRATION AND ELIMINATING
THE BACKLOG OF
ANTI-DISCRIMINATION AND EQUAL OPPORTUNITY HEARINGS AT THE
HUMAN RIGHTS COMMISSION**

WHEREAS, it has been one of the signature achievements of this administration to track, rationalize, and reform the administrative hearings system within the State of Illinois; and

WHEREAS, more than 150,000 administrative hearings are requested each year across State agencies, and the conduct of these hearings operates as a quasi-judicial court system within State government; and

WHEREAS, our constitutional, democratic principles require the State to afford due process to people and businesses affected by the decisions of agencies that come out of administrative hearings; and

WHEREAS, due process should ensure a speedy disposition of hearings so that people in Illinois receive State services and obtain resolution of their rights and privileges in a timely manner; and

WHEREAS, to ensure this quasi-judicial system operates in a fair, efficient, and transparent way, I signed Executive Order 2016-06 to create a pilot Bureau of Administrative Hearings ("Bureau") within the Department of Central Management Services ("CMS") to provide central, uniform administrative support to State agencies and to recommend consolidation of hearing functions as appropriate; and

WHEREAS, in its pilot year, the Bureau initiated case sharing between the Department of Public Health, the Department of Revenue, and the Department of Labor and doubled the speed of Labor adjudications with no expense to the State; and

WHEREAS, the Bureau has initiated the State's first comprehensive professional development program for administrative law judges, including providing over 1200 hours of professional training, promulgating the State's first bench manual for adjudicators, and developing the State's first orientation program for adjudicators; and

WHEREAS, in recognition of these efforts and the success of the Bureau, I signed Executive Order 2017-04, making the Bureau a permanent part of CMS and directing it to continue and expand its work; and

WHEREAS, recognizing a uniquely problematic backlog in the adjudication of hearings at the Human Rights Commission ("HRC"), I signed Executive Order 2017-02 to consolidate HRC with the Department of Human Rights ("DHR"); and

WHEREAS, DHR receives, investigates, and conciliates charges of unlawful discrimination and undertakes affirmative action and public education activities to prevent discrimination; and

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WHEREAS, HRC is a body that hears and adjudicates discrimination cases; and

WHEREAS, although a single statute governs these two State agencies, HRC and DHR often have different, conflicting, and inconsistent rules of administrative procedure, which confuse parties, impede transparency, and create redundancies, backlog, and delay; and

WHEREAS, the consolidation of these two State agencies was intended to produce faster investigative and adjudicative processes, because they would have been able to share resources effectively and cut bureaucratic red tape; and

WHEREAS, the General Assembly rejected my reorganization of DHR and HRC and the backlog of cases at HRC continues to grow; and

WHEREAS, under our current outdated and unproductive structure, people and businesses wait at least four years, on average, after filing a charge of discrimination for DHR to investigate and HRC to issue its final decision on their cases; and

WHEREAS, HRC currently has over 1,000 backlogged cases pending two years or more without a decision, and some parties wait as long as three years for a resolution to their case by HRC; and

WHEREAS, these delays are unacceptable and unfair to aggrieved parties and businesses and to the general public; and

WHEREAS, individuals and groups most often harmed by delay are impoverished and minority parties and small businesses without the resources to obtain counsel and pay expensive legal fees to appear in Illinois courts; and

WHEREAS, the State and the public recognize, perhaps more than ever before, the critical importance of ensuring due process in discrimination cases, including discrimination complaints regarding sexual harassment; and

WHEREAS, it is the continued obligation of the Governor as the chief executive of the State to oversee executive branch processes and track and resolve process and organizational problems as they are identified, and my administration is still resolved to cure this backlog despite the General Assembly's rejection of my previous Executive Order; and

WHEREAS, collaboration with the Bureau has proven successful for State agencies, and DHR and HRC can benefit from meaningful partnership with each other and the Bureau to realize better hearings processes; and

WHEREAS, addressing this backlog must feature honest and transparent accounting, rooted in thorough data collection, to understand the scope of problems and opportunities in the hearings process;

THEREFORE, I, Bruce Rauner, Governor of Illinois, by virtue of the executive authority vested in me by Section 11 of Article V of the Constitution of the State of Illinois, do hereby order as follows:

I. DEFINITIONS

"Bureau" means the Bureau of Administrative Hearings at CMS.

"CMS" means the Department of Central Management Services.

"DHR" means the Department of Human Rights.

"DoIT" means the Department of Innovation and Technology.

"HRC" means the Human Rights Commission.

"Rapids Results training" means training provided by the Office of Rapid Results, created under this administration based on the State's philosophy of continuous improvement that encourages State employees to find and eliminate process waste and improve the efficiency and quality of State products and services.

II. COORDINATION BETWEEN THE BUREAU, HRC, AND DHR REQUIRED

Coordination between State agencies to identify economies of scale, model best practices, and develop thoughtful approaches to all aspects of administrative hearings work is a proven success. The Bureau is empowered to partner with State agencies to provide administrative hearings support by entering into interagency contracts with participating State agencies, as authorized by the Intergovernmental Cooperation Act and other applicable law. It develops training programs for adjudicators, promotes shared resources among participating agencies, develops uniform rules of procedure, and recommends revisions, where appropriate, to agency administrative rules on administrative hearings. The Bureau is required to cooperate with DoIT to implement modern, uniform filing and case management systems.

With this model in mind, pursuant to this Executive Order, the Bureau, DHR, and HRC shall coordinate to achieve efficiencies and eliminate backlogs. Coordination shall include:

1. Developing a benchmarking system and a plan for the elimination of the backlog, which will require, at a minimum, the complete elimination of backlog in HRC cases within 18 months. This plan shall be submitted to the Governor within 60 days of the effective date of this Executive Order.
2. Reviewing rights and requirements at DHR and HRC and identifying where legislation, administrative rules, and internal policies can be proposed or amended to highlight similarities between DHR and HRC, thereby streamlining the hearings process for parties.
3. Executing intergovernmental agreements to share resources and smooth workloads through the administrative hearings process.
4. Developing, with DoIT, technological solutions and shared case management systems.
5. Tracking, and reporting at least quarterly to the Governor and the Director of CMS, the total number of pending cases, average and median length of time for resolution to cases, and any other information necessary to capture backlog or delays in processing of cases.
6. Soliciting feedback and surveying parties appearing before HRC and DHR and incorporating, as appropriate, their suggestions for better, and not simply faster, service in the hearings process.
7. Developing and participating in training programs, including at least one Rapid Results training program.

No aspect of coordination should work to limit the constitutional or statutory due process rights of parties before DHR or HRC.

III. REPORT TO THE GOVERNOR'S OFFICE

The Bureau shall, no later than December 31, 2018, and annually thereafter for three years, provide a report to the Governor and the Director of CMS on the coordination efforts and data reporting of the Bureau, DHR, and HRC pursuant to this Executive Order. The report shall include: (1) an analysis of current case backlogs and projected backlog reductions; (2) a description of due process and operational improvements at the HRC and DHR; and (3) the effect of such improvements on State government and the public. The report shall also provide recommendations for further executive or legislative action relating to the implementation of this Executive Order. The Bureau shall work with DHR and HRC to prepare this report. The Bureau shall further work with DoIT to include any proposed or implemented technological changes affecting the operations of DHR and HRC. A copy of such report shall be filed with the General Assembly.

IV. SAVINGS CLAUSE

1. This Executive Order does not, and shall not be construed to, transfer any rights, powers, duties, functions, property, personnel, or funds from, to, or among State agencies; each State agency continues to have whatever authority is provided to it pursuant to the Intergovernmental Cooperation Act and other applicable law to enter into interagency contracts, which may include permissible transfers.

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2. This Executive Order shall not affect any act undertaken, ratified, or cancelled or any right occurring or established or any action or proceeding commenced in an administrative, civil, or criminal case before this Executive Order takes effect, but these actions or proceedings may be prosecuted and continued by the Bureau in cooperation with the State agency, if necessary.
3. This Executive Order shall not affect the legality of any rules in the Illinois Administrative Code that are in force on the effective date of this Executive Order, which rules have been duly adopted by the pertinent agencies. If necessary, however, the affected agencies shall propose, adopt, or repeal rules, rule amendments, and rule recodifications as appropriate to effectuate this Executive Order.
4. This Executive Order does not contravene, and shall not be construed to contravene, any federal law, State statute, or collective bargaining agreement.

V. PRIOR EXECUTIVE ORDERS

This Executive Order supersedes any contrary provision of any other prior Executive Order.

VI. SEVERABILITY CLAUSE

If any part of this Executive Order is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

VII. EFFECTIVE DATE

This Executive Order shall take effect upon filing with the Secretary of State.



Bruce Rauner, Governor

Issued by the Governor: June 20, 2018

Filed with Secretary of State: June 20, 2018

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