

Senate Bill No. 504

(By Senators Laird, Edgell, Stollings and D. Facemire)

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[Introduced February 14, 2011; referred to the Committee on
Transportation and Infrastructure; then to the Committee on the
Judiciary; and then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §17C-5A-2 of the Code of West Virginia,
1931, as amended; and to amend said code by adding thereto a
new section, designated §17C-5C-4a, all relating to
administrative hearings for suspension and revocation of
licenses for driving while under the influence of alcohol,
controlled substances or drugs; providing that the Office of
Administrative Hearings send notices of hearings to the
Division of Motor Vehicles and the Attorney General if the
Attorney General has filed a notice of appearance and deleting
the requirement that notice be sent to the county prosecuting
attorney; providing the Office of Administrative Hearings
subpoena authority; providing that the failure to obey a
subpoena constitutes a misdemeanor punishable by a fine up to
\$500; deleting the provision that a hearing notice sent by
certified or registered mail to a law-enforcement officer
constitutes a subpoena to appear; providing authority to
impose certain fees; creating a special revenue account to

1 support the activities of the Office of Administrative
2 Hearings; and authorizing rulemaking.

3 *Be it enacted by the Legislature of West Virginia:*

4 That §17C-5A-2 of the Code of West Virginia, 1931, as amended,
5 be amended and reenacted; and that said code be amended by adding
6 thereto a new section, designated §17C-5C-4a, all to read as
7 follows:

8 **ARTICLE 5A. ADMINISTRATIVE PROCEDURES FOR SUSPENSION AND**
9 **REVOCAION OF LICENSES FOR DRIVING UNDER THE**
10 **INFLUENCE OF ALCOHOL, CONTROLLED SUBSTANCES OR**
11 **DRUGS.**

12 **§17C-5A-2. Hearing; revocation; review.**

13 (a) Written objections to an order of revocation or suspension
14 under the provisions of section one of this article or section
15 seven, article five of this chapter shall be filed with the Office
16 of Administrative Hearings. Upon the receipt of an objection, the
17 Office of Administrative Hearings shall notify the Commissioner of
18 the Division of Motor Vehicles, who shall stay the imposition of
19 the period of revocation or suspension and afford the person an
20 opportunity to be heard by the Office of Administrative Hearings.
21 The written objection must be filed with Office of Administrative
22 Hearings in person or by registered or certified mail, return
23 receipt requested, within thirty calendar days after receipt of a
24 copy of the order of revocation or suspension or no hearing will be
25 granted. The hearing shall be before a hearing examiner employed
26 by the Office of Administrative Hearings who shall rule on
27 evidentiary issues. Upon consideration of the designated record,

1 the hearing examiner shall, based on the determination of the facts
2 of the case and applicable law, render a decision affirming,
3 reversing or modifying the action protested. The decision shall
4 contain findings of fact and conclusions of law and shall be
5 provided to all parties by registered or certified mail, return
6 receipt requested.

7 (b) The hearing shall be held at an office of the Division of
8 Motor Vehicles located in or near the county in which the arrest
9 was made in this state or at some other suitable place in the
10 county in which the arrest was made if an office of the division is
11 not available. The Office of Administrative Hearings shall send a
12 notice of hearing to the person whose license is at issue, the
13 appropriate law-enforcement officers, ~~and the prosecuting attorney~~
14 the Division of Motor Vehicles and the Attorney General in the
15 event the Attorney General has filed a notice of appearance of
16 counsel on behalf of the Division of Motor Vehicles.

17 (c) (1) Any hearing shall be held within one hundred eighty
18 days after the date upon which the Office of Administrative
19 Hearings received the timely written objection unless there is a
20 postponement or continuance.

21 (2) The Office of Administrative Hearings may postpone or
22 continue any hearing on its own motion or upon application by the
23 party whose license is at issue in that hearing or by the
24 commissioner for good cause shown.

25 ~~(3) A notice of hearing to the appropriate law enforcement~~
26 ~~officers by registered or certified mail, return receipt requested,~~
27 ~~constitutes a subpoena to appear at the hearing without the~~

1 ~~necessity of payment of fees by the Division of Motor Vehicles.~~

2 (3) The Office of Administrative Hearings has authority to
3 issue subpoenas commanding the appearance of witnesses and
4 subpoenas duces tecum commanding the submission of documents, items
5 or other things. Subpoenas duces tecum shall be returnable on the
6 date of the next scheduled hearing unless otherwise specified. The
7 Office of Administrative hearings shall issue subpoenas and
8 subpoenas duces tecum upon request of any party or the party's
9 legal representative. The party requesting the subpoena is
10 responsible for its service. Every subpoena or subpoena duces
11 tecum shall be served at least five days before its return date by
12 personal service made by a person over eighteen years of age or by
13 registered or certified mail, return receipt requested, and
14 received by the party responsible for serving the subpoena or
15 subpoena duces tecum. Failure to obey a subpoena or subpoena duces
16 tecum issued by the Office of Administrative Hearings constitutes
17 a misdemeanor and, upon conviction thereof a person may be fined up
18 to \$500. The fees for the attendance and travel of witnesses,
19 unless otherwise provided, is the same as witnesses before the
20 circuit court.

21 (d) Law-enforcement officers shall be compensated for the time
22 expended in their travel and appearance before the Office of
23 Administrative Hearings by the law-enforcement agency by whom they
24 are employed at their regular rate if they are scheduled to be on
25 duty during said time or at their regular overtime rate if they are
26 scheduled to be off duty during said time.

27 (e) The principal question at the hearing shall be whether the

1 person did drive a motor vehicle while under the influence of
2 alcohol, controlled substances or drugs, or did drive a motor
3 vehicle while having an alcohol concentration in the person's blood
4 of eight hundredths of one percent or more, by weight, or did
5 refuse to submit to the designated secondary chemical test, or did
6 drive a motor vehicle while under the age of twenty-one years with
7 an alcohol concentration in his or her blood of two hundredths of
8 one percent or more, by weight, but less than eight hundredths of
9 one percent, by weight.

10 (f) In the case of a hearing in which a person is accused of
11 driving a motor vehicle while under the influence of alcohol,
12 controlled substances or drugs, or accused of driving a motor
13 vehicle while having an alcohol concentration in the person's blood
14 of eight hundredths of one percent or more, by weight, or accused
15 of driving a motor vehicle while under the age of twenty-one years
16 with an alcohol concentration in his or her blood of two hundredths
17 of one percent or more, by weight, but less than eight hundredths
18 of one percent, by weight, the Office of Administrative Hearings
19 shall make specific findings as to: (1) Whether the investigating
20 law-enforcement officer had reasonable grounds to believe the
21 person to have been driving while under the influence of alcohol,
22 controlled substances or drugs, or while having an alcohol
23 concentration in the person's blood of eight hundredths of one
24 percent or more, by weight, or to have been driving a motor vehicle
25 while under the age of twenty-one years with an alcohol
26 concentration in his or her blood of two hundredths of one percent
27 or more, by weight, but less than eight hundredths of one percent,

1 by weight; (2) whether the person was lawfully placed under arrest
2 for an offense involving driving under the influence of alcohol,
3 controlled substances or drugs, or was lawfully taken into custody
4 for the purpose of administering a secondary test: *Provided*, That
5 this element shall be waived in cases where no arrest occurred due
6 to driver incapacitation; (3) whether the person committed an
7 offense involving driving under the influence of alcohol,
8 controlled substances or drugs, or was lawfully taken into custody
9 for the purpose of administering a secondary test; and (4) whether
10 the tests, if any, were administered in accordance with the
11 provisions of this article and article five of this chapter.

12 (g) If, in addition to a finding that the person did drive a
13 motor vehicle while under the influence of alcohol, controlled
14 substances or drugs, or did drive a motor vehicle while having an
15 alcohol concentration in the person's blood of eight hundredths of
16 one percent or more, by weight, or did drive a motor vehicle while
17 under the age of twenty-one years with an alcohol concentration in
18 his or her blood of two hundredths of one percent or more, by
19 weight, but less than eight hundredths of one percent, by weight,
20 the Office of Administrative Hearings also finds by a preponderance
21 of the evidence that the person when driving did an act forbidden
22 by law or failed to perform a duty imposed by law, which act or
23 failure proximately caused the death of a person and was committed
24 in reckless disregard of the safety of others and if the Office of
25 Administrative Hearings further finds that the influence of
26 alcohol, controlled substances or drugs or the alcohol
27 concentration in the blood was a contributing cause to the death,

1 the commissioner shall revoke the person's license for a period of
2 ten years: *Provided*, That if the person's license has previously
3 been suspended or revoked under the provisions of this section or
4 section one of this article within the ten years immediately
5 preceding the date of arrest, the period of revocation shall be for
6 the life of the person.

7 (h) If, in addition to a finding that the person did drive a
8 motor vehicle while under the influence of alcohol, controlled
9 substances or drugs, or did drive a motor vehicle while having an
10 alcohol concentration in the person's blood of eight hundredths of
11 one percent or more, by weight, the Office of Administrative
12 Hearings also finds by a preponderance of the evidence that the
13 person when driving did an act forbidden by law or failed to
14 perform a duty imposed by law, which act or failure proximately
15 caused the death of a person, the commissioner shall revoke the
16 person's license for a period of five years: *Provided*, That if the
17 person's license has previously been suspended or revoked under the
18 provisions of this section or section one of this article within
19 the ten years immediately preceding the date of arrest, the period
20 of revocation shall be for the life of the person.

21 (i) If, in addition to a finding that the person did drive a
22 motor vehicle while under the influence of alcohol, controlled
23 substances or drugs, or did drive a motor vehicle while having an
24 alcohol concentration in the person's blood of eight hundredths of
25 one percent or more, by weight, the Office of Administrative
26 Hearings also finds by a preponderance of the evidence that the
27 person when driving did an act forbidden by law or failed to

1 perform a duty imposed by law, which act or failure proximately
2 caused bodily injury to a person other than himself or herself, the
3 commissioner shall revoke the person's license for a period of two
4 years: *Provided*, That if the license has previously been suspended
5 or revoked under the provisions of this section or section one of
6 this article within the ten years immediately preceding the date of
7 arrest, the period of revocation shall be ten years: *Provided*,
8 *however*, That if the person's license has previously been suspended
9 or revoked more than once under the provisions of this section or
10 section one of this article within the ten years immediately
11 preceding the date of arrest, the period of revocation shall be for
12 the life of the person.

13 (j) If the Office of Administrative Hearings finds by a
14 preponderance of the evidence that the person did drive a motor
15 vehicle while under the influence of alcohol, controlled substances
16 or drugs, or did drive a motor vehicle while having an alcohol
17 concentration in the person's blood of eight hundredths of one
18 percent or more, by weight, but less than fifteen hundredths of one
19 percent or more, by weight, or finds that the person knowingly
20 permitted the person's vehicle to be driven by another person who
21 was under the influence of alcohol, controlled substances or drugs,
22 or knowingly permitted the person's vehicle to be driven by another
23 person who had an alcohol concentration in his or her blood of
24 eight hundredths of one percent or more, by weight the commissioner
25 shall revoke the person's license for a period of six months or a
26 period of fifteen days with an additional one hundred and twenty
27 days of participation in the Motor Vehicle Alcohol Test and Lock

1 Program in accordance with the provisions of section three-a of
2 this article: *Provided*, That any period of participation in the
3 Motor Vehicle Alcohol Test and Lock Program that has been imposed
4 by a court pursuant to section two-b, article five of this chapter
5 shall be credited against any period of participation imposed by
6 the commissioner: *Provided ~~further~~, however*, That a person whose
7 license is revoked for driving while under the influence of drugs
8 is not eligible to participate in the Motor Vehicle Alcohol Test
9 and Lock Program: *Provided ~~however~~ further*, That if the person's
10 license has previously been suspended or revoked under the
11 provisions of this section or section one of this article within
12 the ten years immediately preceding the date of arrest, the period
13 of revocation shall be ten years: And provided further, That if the
14 person's license has previously been suspended or revoked more than
15 once under the provisions of this section or section one of this
16 article within the ten years immediately preceding the date of
17 arrest, the period of revocation shall be for the life of the
18 person.

19 (k) (1) If in addition to finding by a preponderance of the
20 evidence that the person did drive a motor vehicle while under the
21 influence of alcohol, controlled substance or drugs, the Office of
22 Administrative Hearings also finds by a preponderance of the
23 evidence that the person did drive a motor vehicle while having an
24 alcohol concentration in the person's blood of fifteen hundredths
25 of one percent or more, by weight, the commissioner shall revoke
26 the person's license for a period of forty-five days with an
27 additional two hundred and seventy days of participation in the

1 Motor Vehicle Alcohol Test and Lock Program in accordance with the
2 provisions of article three-a, article five-a, chapter seventeen-c
3 of this code: *Provided*, That if the person's license has
4 previously been suspended or revoked under the provisions of this
5 section or section one of this article within the ten years
6 immediately preceding the date of arrest, the period of revocation
7 shall be ten years: *Provided, however*, That if the person's
8 license has previously been suspended or revoked the person's
9 license more than once under the provisions of this section or
10 section one of this article within the ten years immediately
11 preceding the date of arrest, the period of revocation shall be for
12 the life of the person.

13 (2) If a person whose license is revoked pursuant to
14 subdivision (1) of this subsection proves by clear and convincing
15 evidence that they do not own a motor vehicle upon which the
16 alcohol test and lock device may be installed or is otherwise
17 incapable of participating in the Motor Vehicle Alcohol Test and
18 Lock Program, the period of revocation shall be one hundred eighty
19 days: *Provided*, That if the person's license has previously been
20 suspended or revoked under the provisions of this section or
21 section one of this article within the ten years immediately
22 preceding the date of arrest, the period of revocation shall be ten
23 years: *Provided, however*, That if the person's license has
24 previously been suspended or revoked more than once under the
25 provisions of this section or section one of this article within
26 the ten years immediately preceding the date of arrest, the period
27 of revocation shall be for the life of the person.

1 (1) If, in addition to a finding that the person did drive a
2 motor vehicle while under the age of twenty-one years with an
3 alcohol concentration in his or her blood of two hundredths of one
4 percent or more, by weight, but less than eight hundredths of one
5 percent, by weight, the Office of Administrative Hearings also
6 finds by a preponderance of the evidence that the person when
7 driving did an act forbidden by law or failed to perform a duty
8 imposed by law, which act or failure proximately caused the death
9 of a person, and if the Office of Administrative Hearings further
10 finds that the alcohol concentration in the blood was a
11 contributing cause to the death, the commissioner shall revoke the
12 person's license for a period of five years: *Provided*, That if the
13 person's license has previously been suspended or revoked under the
14 provisions of this section or section one of this article within
15 the ten years immediately preceding the date of arrest, the period
16 of revocation shall be for the life of the person.

17 (m) If, in addition to a finding that the person did drive a
18 motor vehicle while under the age of twenty-one years with an
19 alcohol concentration in his or her blood of two hundredths of one
20 percent or more, by weight, but less than eight hundredths of one
21 percent, by weight, the Office of Administrative Hearings also
22 finds by a preponderance of the evidence that the person when
23 driving did an act forbidden by law or failed to perform a duty
24 imposed by law, which act or failure proximately caused bodily
25 injury to a person other than himself or herself, and if the Office
26 of Administrative Hearings further finds that the alcohol
27 concentration in the blood was a contributing cause to the bodily

1 injury, the commissioner shall revoke the person's license for a
2 period of two years: *Provided*, That if the person's license has
3 previously been suspended or revoked under the provisions of this
4 section or section one of this article within the ten years
5 immediately preceding the date of arrest, the period of revocation
6 shall be ten years: *Provided, however*, That if the person's
7 license has previously been suspended or revoked more than once
8 under the provisions of this section or section one of this article
9 within the ten years immediately preceding the date of arrest, the
10 period of revocation shall be for the life of the person.

11 (n) If the Office of Administrative Hearings finds by a
12 preponderance of the evidence that the person did drive a motor
13 vehicle while under the age of twenty-one years with an alcohol
14 concentration in his or her blood of two hundredths of one percent
15 or more, by weight, but less than eight hundredths of one percent,
16 by weight, the commissioner shall suspend the person's license for
17 a period of sixty days: *Provided*, That if the person's license has
18 previously been suspended or revoked under the provisions of this
19 section or section one of this article, the period of revocation
20 shall be for one year, or until the person's twenty-first birthday,
21 whichever period is longer.

22 (o) If, in addition to a finding that the person did drive a
23 motor vehicle while under the influence of alcohol, controlled
24 substances or drugs, or did drive a motor vehicle while having an
25 alcohol concentration in the person's blood of eight hundredths of
26 one percent or more, by weight, the Office of Administrative
27 Hearings also finds by a preponderance of the evidence that the

1 person when driving did have on or within the motor vehicle another
2 person who has not reached his or her sixteenth birthday, the
3 commissioner shall revoke the person's license for a period of one
4 year: *Provided*, That if the person's license has previously been
5 suspended or revoked under the provisions of this section or
6 section one of this article within the ten years immediately
7 preceding the date of arrest, the period of revocation shall be ten
8 years: *Provided, however*, That if the person's license has
9 previously been suspended or revoked more than once under the
10 provisions of this section or section one of this article within
11 the ten years immediately preceding the date of arrest, the period
12 of revocation shall be for the life of the person.

13 (p) For purposes of this section, where reference is made to
14 previous suspensions or revocations under this section, the
15 following types of criminal convictions or administrative
16 suspensions or revocations shall also be regarded as suspensions or
17 revocations under this section or section one of this article:

18 (1) Any administrative revocation under the provisions of the
19 prior enactment of this section for conduct which occurred within
20 the ten years immediately preceding the date of arrest;

21 (2) Any suspension or revocation on the basis of a conviction
22 under a municipal ordinance of another state or a statute of the
23 United States or of any other state of an offense which has the
24 same elements as an offense described in section two, article five
25 of this chapter for conduct which occurred within the ten years
26 immediately preceding the date of arrest; or

27 (3) Any revocation under the provisions of section seven,

1 article five of this chapter for conduct which occurred within the
2 ten years immediately preceding the date of arrest.

3 (q) In the case of a hearing in which a person is accused of
4 refusing to submit to a designated secondary test, the Office of
5 Administrative Hearings shall make specific findings as to: (1)
6 Whether the arresting law-enforcement officer had reasonable
7 grounds to believe the person had been driving a motor vehicle in
8 this state while under the influence of alcohol, controlled
9 substances or drugs; (2) whether the person was lawfully placed
10 under arrest for an offense involving driving under the influence
11 of alcohol, controlled substances or drugs, or was lawfully taken
12 into custody for the purpose of administering a secondary test:
13 *Provided*, That this element shall be waived in cases where no
14 arrest occurred due to driver incapacitation; (3) whether the
15 person committed an offense relating to driving a motor vehicle in
16 this state while under the influence of alcohol, controlled
17 substances or drugs; (4) whether the person refused to submit to
18 the secondary test finally designated in the manner provided in
19 section four, article five of this chapter; and (5) whether the
20 person had been given a written statement advising the person that
21 the person's license to operate a motor vehicle in this state would
22 be revoked for at least forty-five days and up to life if the
23 person refused to submit to the test finally designated in the
24 manner provided in said section.

25 (r) If the Office of Administrative Hearings finds by a
26 preponderance of the evidence that: (1) The investigating officer
27 had reasonable grounds to believe the person had been driving a

1 motor vehicle in this state while under the influence of alcohol,
2 controlled substances or drugs; (2) whether the person was lawfully
3 placed under arrest for an offense involving driving under the
4 influence of alcohol, controlled substances or drugs, or was
5 lawfully taken into custody for the purpose of administering a
6 secondary test: *Provided*, That this element shall be waived in
7 cases where no arrest occurred due to driver incapacitation; (3)
8 the person committed an offense relating to driving a motor vehicle
9 in this state while under the influence of alcohol, controlled
10 substances or drugs; (4) the person refused to submit to the
11 secondary test finally designated in the manner provided in section
12 four, article five of this chapter; and (5) the person had been
13 given a written statement advising the person that the person's
14 license to operate a motor vehicle in this state would be revoked
15 for at least forty-five days and up to life if the person refused
16 to submit to the test finally designated, the commissioner shall
17 revoke the person's license to operate a motor vehicle in this
18 state for the periods specified in section seven, article five of
19 this chapter. The revocation period prescribed in this subsection
20 shall run concurrently with any other revocation period ordered
21 under this section or section one of this article arising out of
22 the same occurrence. The revocation period prescribed in this
23 subsection shall run concurrently with any other revocation period
24 ordered under this section or section one of this article arising
25 out of the same occurrence.

26 (s) If the Office of Administrative Hearings finds to the
27 contrary with respect to the above issues the commissioner shall

1 rescind his or her earlier order of revocation or shall reduce the
2 order of revocation to the appropriate period of revocation under
3 this section or section seven, article five of this chapter. A copy
4 of the Office of Administrative Hearings' findings of fact and
5 conclusions of law made and entered following the hearing shall be
6 served upon the person whose license is at issue and the
7 commissioner by registered or certified mail, return receipt
8 requested. During the pendency of any hearing, the revocation of
9 the person's license to operate a motor vehicle in this state shall
10 be stayed.

11 A person whose license is at issue and the commissioner shall
12 be entitled to judicial review as set forth in chapter twenty-nine-
13 a of this code. Neither the commissioner nor the Office of
14 Administrative Hearings may stay enforcement of the order. The
15 court may grant a stay or supersede as of the order only upon
16 motion and hearing, and a finding by the court upon the evidence
17 presented, that there is a substantial probability that the
18 appellant shall prevail upon the merits and the appellant will
19 suffer irreparable harm if the order is not stayed: *Provided*, That
20 in no event shall the stay or supersede as of the order exceed one
21 hundred fifty days. Notwithstanding the provisions of section
22 four, article five of said chapter, the Office of Administrative
23 Hearings may not be compelled to transmit a certified copy of the
24 file or the transcript of the hearing to the circuit court in less
25 than sixty days.

26 (t) In any revocation or suspension pursuant to this section,
27 if the driver whose license is revoked or suspended had not reached

1 the driver's eighteenth birthday at the time of the conduct for
2 which the license is revoked or suspended, the driver's license
3 shall be revoked or suspended until the driver's eighteenth
4 birthday or the applicable statutory period of revocation or
5 suspension prescribed by this section, whichever is longer.

6 (u) Funds for this section's hearing and appeal process may be
7 provided from the Drunk Driving Prevention Fund, as created by
8 section forty-one, article two, chapter fifteen of this code, upon
9 application for the funds to the Commission on Drunk Driving
10 Prevention.

11 **ARTICLE 5C. OFFICE OF ADMINISTRATIVE HEARINGS.**

12 **§17C-5C-4a. Rulemaking authority; assessment of costs; special**
13 **account created.**

14 (a) The Office of Administrative Hearings is authorized to
15 propose legislative rules in accordance with article three, chapter
16 twenty-nine-a of this code in order to implement this section.

17 (b) The Office of Administrative Hearings is required to
18 assess witness costs at the same rate as witness fees in circuit
19 court and a docket fee of \$10 for each hearing request against any
20 person filing a request for a hearing under section two, article
21 five-a of this chapter. The Office of Administrative Hearings is
22 also required to assess fees for the costs of providing hearing
23 transcripts or documents of record requested by a party.

24 (c) All fees and costs collected pursuant to this section
25 shall be paid into a special revenue account, designated as the
26 Office of Administrative Hearings Fund, in the State Treasury. The
27 Secretary of the Department of Transportation, upon request of the

1 Chief Hearing Examiner of the Office of Administrative Hearings,
2 may authorize the use of moneys collected and deposited in the
3 special revenue account to support the legitimate duties and
4 activities of the Office of Administrative Hearings. The secretary
5 may authorize the transfer of funds from the Office of
6 Administrative Hearings Fund to an appropriate agency account to
7 pay costs of registered and certified mailings and other expenses
8 associated with the conduct of hearings under this article. The
9 secretary shall propose legislative rules to regulate the transfer
10 and use of moneys collected and deposited in the Office of
11 Administrative Hearings account.

NOTE: The purpose of this bill concerns administrative hearings for suspension and revocation of licenses for driving while under the influence of alcohol, controlled substances or drugs, The bill provides that the Office of Administrative Hearings send notices of hearings to the Division of Motor Vehicles and the Attorney General if the Attorney General has filed a notice of appearance and deletes the requirement that notice be sent to the county prosecuting attorney;. The bill provides the Office of Administrative Hearings subpoena authority and failure to obey a subpoena constitutes a misdemeanor punishable by a fine up to \$500. The bill deletes the provision that a hearing notice sent by certified or registered mail to a law-enforcement officer constitutes a subpoena to appear;. The bill also provides authority to impose certain fees and that a special revenue account be created to support the activities of the Office of Administrative Hearings. The bill further authorizes rulemaking.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§17C-5C-4a is new; therefore, strike-throughs and underscoring have been omitted.