It is enacted by the General Assembly as follows:

SECTION 1. Sections 46-23-20, 46-23-20.1, 46-23-20.2 and 46-23-20.4 of the General Laws in Chapter 46-23 entitled "Coastal Resources Management Council" are hereby amended to read as follows:


All contested cases, all contested enforcement proceedings, and all contested administrative fines shall be heard by the administrative hearing officers, or by subcommittees as provided in § 46-23-20.1, pursuant to the regulations promulgated by the council; provided, however, that no proceeding and hearing prior to the appointment of the hearing officers shall be subject to the provisions of this section. Notwithstanding the foregoing, the commissioner executive director of coastal resources management shall be authorized, in his or her discretion, to resolve contested licensing and enforcement proceedings through informal disposition pursuant to regulations promulgated by the council.

46-23-20.1. Hearing officers -- Appointment -- Compensation -- Subcommittee

(a) The governor, with the advice and consent of the senate, shall appoint at least one and up to two (2) hearing officers who shall be attorneys-at-law, who, prior to their appointment, shall have practiced law for a period of not less than five (5) years for a term of five (5) years; provided, however, that the initial appointments shall be as follows:
appointment of a hearing officer shall be appointed for a term of three (3) years and one if a second hearing officer shall be appointed for a term of five (5) years. The appointees shall be addressed as hearing officers.

(b) The governor shall designate one of the hearing officers as chief hearing officer. The hearing officers shall hear proceedings as provided by this section, and the council, with the assistance of the chief hearing officer, may promulgate such rules and regulations as shall be necessary or desirable to effect the purposes of this section.

(c) A hearing officer shall be devoted full time to these administrative duties, and shall not otherwise practice law while holding office nor be a partner nor an associate of any person in the practice of law.

(d) Compensation for hearing officers shall be determined by the unclassified pay board.

(e) Whenever the chairperson of the coastal resources management council or, in the absence of the chairperson, the commissioner of coastal resources makes a finding that the hearing officers are otherwise engaged and unable to hear a matter in a timely fashion, he or she may appoint a subcommittee which will act as hearing officers in any contested case coming before the council. The subcommittee shall consist of at least one member, provided, however, that in all contested cases an additional member shall be a resident of the coastal community affected. The city or town council of each coastal community shall, at the beginning of its term of office, appoint a resident of that city or town to serve as an alternate member of the aforesaid subcommittee should there be no existing member of the coastal resources management council from that city or town available to serve on the subcommittee. Any member of the subcommittee actively engaged in hearing a case shall continue to hear the case, even though his or her term may have expired, until the case is concluded and a vote taken thereon. Hearings before subcommittees shall be subject to all rules of practice and procedure as govern hearings before hearing officers. Notwithstanding any other law to the contrary, if a hearing officer is not appointed, confirmed and engaged within ninety (90) days of the effective date of this section, or the position of hearing officer is vacant for more than ninety (90) days, the executive director is empowered and directed to hire a hearing officer, The executive director shall hire a hearing officer, who shall be in the unclassified service, for a term of five (5) years and shall have practiced law for a period of not less than five (5) years and shall meet the requirements set forth in subsections (c) and (d) of this section.

(f) If at least one hearing officer has been appointed, confirmed and engaged or hired by the executive director and is unable to hear a case in a timely manner as required by law, the executive director may hire a hearing officer employed by the state in such capacity, who shall have practiced law for a period of not less than five (5) years and meets the requirements set forth in
subsection (c) of this section to adjudicate pending contested cases.

46-23-20.2. Clerk.

The commissioner, executive director of coastal resources or his or her designee shall serve as clerk to the hearing officers. The clerk shall have general charge of the office, keep a full record of proceedings, file and preserve all documents and papers, prepare such papers and notices as may be required, and perform such other duties as required. The commissioner, executive director and hearing officers shall have the power to issue subpoenas for witnesses and documents and to administer oaths in all cases before any hearing officer or pertaining to the duties of his or her office.


(a) Subject to the provisions of this chapter, every hearing for the adjudication of a violation or for a contested matter shall be held before a hearing officer or a subcommittee. The chief hearing officer shall assign a hearing officer to each matter not assigned to a subcommittee. After due consideration of the evidence and arguments, the hearing officer shall make written proposed findings of fact and proposed conclusions of law which shall be made public when submitted to the council for review. The council may, in its discretion, adopt, modify, or reject the findings of fact and/or conclusions of law; provided, however, that any modification or rejection of the proposed findings of fact or conclusions of law shall be in writing and shall state the rationales therefor.

(b) The director of the department of environmental management and the coastal resources management council shall promulgate such rules and regulations, not inconsistent with law, as to assure uniformity of proceedings as applicable.

SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO WATERS AND NAVIGATION -- COASTAL RESOURCES MANAGEMENT COUNCIL

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1. This act would require the executive director of the coastal resources management council to hire a hearing officer if the position is vacant for more than ninety (90) days after the effective date of this act.

2. This act would take effect upon passage.