

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 36*
House Committee Substitute Favorable 3/6/13
Third Edition Engrossed 3/13/13

Short Title: APA Technical/Clarifying Chges.

(Public)

Sponsors:

Referred to:

February 4, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CERTAIN TECHNICAL, CLARIFYING, AND CONFORMING
3 CHANGES TO THE ADMINISTRATIVE PROCEDURE ACT, AS RECOMMENDED
4 BY THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT
5 COMMITTEE.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 150B-21.2(c) reads as rewritten:

8 "(c) Notice of Text. – A notice of the proposed text of a rule must include all of the
9 following:

- 10 (1) The text of the proposed rule.
11 (2) A short explanation of the reason for the proposed rule ~~and a link to the~~
12 ~~agency's Web site containing the information required by G.S. 150B-19.1(c).~~
13 rule.
14 (2a) A link to the agency's Web site containing the information required by G.S.
15 150B-19.1(c).
16 (3) A citation to the law that gives the agency the authority to adopt the rule.
17 (4) The proposed effective date of the rule.
18 (5) The date, time, and place of any public hearing scheduled on the rule.
19 (6) Instructions on how a person may demand a public hearing on a proposed
20 rule if the notice does not schedule a public hearing on the proposed rule and
21 subsection (e) of this section requires the agency to hold a public hearing on
22 the proposed rule when requested to do so.
23 (7) The period of time during which and the person within the agency to whom
24 written comments may be submitted on the proposed rule.
25 (8) If a fiscal note has been prepared for the rule, a statement that a copy of the
26 fiscal note can be obtained from the agency.
27 (9) ~~The procedure by which a person can object to a proposed rule and the~~
28 ~~requirements for subjecting a proposed rule to the legislative review~~
29 ~~process."~~

30 **SECTION 1.1.** G.S. 150B-19.1(c) reads as rewritten:

31 "(c) Each agency subject to this Article shall post on its Web site, no later than the
32 publication date of the notice of text in the North Carolina Register, all of the following:

- 33 (1) The text of a proposed rule.
34 (2) An explanation of the proposed rule and the reason for the proposed rule.
35 (3) The federal certification required by subsection (g) of this section.



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1 (4) Instructions on how and where to submit oral or written comments on the
2 proposed ~~rule~~rule, including a description of the procedure by which a
3 person can object to a proposed rule and subject the proposed rule to
4 legislative review.

5 (5) Any fiscal note that has been prepared for the proposed rule.

6 If an agency proposes any change to a rule or fiscal note prior to the date it proposes to
7 adopt a rule, the agency shall publish the proposed change on its Web site as soon as
8 practicable after the change is drafted. If an agency's staff proposes any such change to be
9 presented to the rule-making agency, the staff shall publish the proposed change on the
10 agency's Web site as soon as practicable after the change is drafted."

11 **SECTION 2.** G.S. 150B-21.7 reads as rewritten:

12 "**§ 150B-21.7. Effect of transfer of duties or termination of agency on rules.**

13 (a) When a law that authorizes an agency to adopt a rule is repealed and another law
14 gives the same or another agency substantially the same authority to adopt a rule, the rule
15 remains in effect until the agency with authority over the rule amends or repeals the rule. When
16 a law that authorizes an agency to adopt a rule is repealed and another law does not give the
17 same or another agency substantially the same authority to adopt a rule, a rule adopted under
18 the repealed law is repealed as of the date the law is repealed. The agency that adopted the rule
19 shall notify the Codifier of Rules that the rule is repealed pursuant to this subsection.

20 (b) When an executive order abolishes part or all of an agency and transfers a function
21 of that agency to another agency, a rule concerning the transferred function remains in effect
22 until the agency to which the function is transferred amends or repeals the rule. When an
23 executive order abolishes part or all of an agency and does not transfer a function of that
24 agency to another agency, a rule concerning a function abolished by the executive order is
25 repealed as of the effective date of the executive order. The agency that adopted the rule shall
26 notify the Codifier of Rules that the rule is repealed pursuant to this subsection.

27 ~~(c) The Director of Fiscal Research of the General Assembly must notify the Codifier~~
28 ~~of Rules when a rule is repealed under this section.~~ When notified of a rule repealed under this
29 section, the Codifier of Rules must enter the repeal of the rule in the North Carolina
30 Administrative Code."

31 **SECTION 3.** G.S. 150B-21.20(a) reads as rewritten:

32 "(a) Authority. – After consulting with the agency that adopted the rule, the Codifier of
33 Rules may revise the form of a rule submitted for inclusion in the North Carolina
34 Administrative Code ~~within 10 business days after the rule is submitted~~ to do one or more of
35 the following:

- 36 (1) Rearrange the order of the rule in the Code or the order of the subsections,
37 subdivisions, or other subparts of the rule.
- 38 (2) Provide a catch line or heading for the rule or revise the catch line or
39 heading of the rule.
- 40 (3) Reletter or renumber the rule or the subparts of the rule in accordance with a
41 uniform system.
- 42 (4) Rearrange definitions and lists.
- 43 (5) Make other changes in arrangement or in form that do not change the
44 substance of the rule and are necessary or desirable for a clear and orderly
45 arrangement of the rule.
- 46 (6) Omit from the published rule a map, a diagram, an illustration, a chart, or
47 other graphic material, if the Codifier of Rules determines that the Office of
48 Administrative Hearings does not have the capability to publish the material
49 or that publication of the material is not practicable. When the Codifier of
50 Rules omits graphic material from the published rule, the Codifier must

1 insert a reference to the omitted material and information on how to obtain a
2 copy of the omitted material."

3 **SECTION 4.** G.S. 150B-45(a) reads as rewritten:

4 "(a) Procedure. – To obtain judicial review of a final decision under this Article, the
5 person seeking review must file a petition within 30 days after the person is served with a
6 written copy of the decision. The petition must be filed as follows:

7 (1) Contested tax cases. – A petition for review of a final decision in a contested
8 tax case arising under G.S. 105-241.15 must be filed in the Superior Court of
9 Wake County.

10 (2) Other final decisions. – A petition for review of any other final decision
11 under this Article must be filed in the ~~Superior Court of Wake County or in~~
12 ~~the~~ superior court of the county where the person aggrieved by the
13 administrative decision resides."

14 **SECTION 5.** Section 4 of this act becomes effective October 1, 2013, and applies
15 to petitions for judicial review filed on or after that date. The remainder of this act is effective
16 when it becomes law.