

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2013

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SENATE BILL 36*

Short Title: APA Technical/Clarifying Chges. (Public)

Sponsors: Senators Hartsell (Primary Sponsor); and Goolsby.

Referred to: Judiciary I.

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

31 **"§ 150B-21.7. Effect of transfer of duties or termination of agency on rules.**

32 (a) When a law that authorizes an agency to adopt a rule is repealed and another law
33 gives the same or another agency substantially the same authority to adopt a rule, the rule
34 remains in effect until the agency with authority over the rule amends or repeals the rule. When
35 a law that authorizes an agency to adopt a rule is repealed and another law does not give the
36 same or another agency substantially the same authority to adopt a rule, a rule adopted under



1 the repealed law is repealed as of the date the law is repealed. The agency that adopted the rule
2 shall notify the Codifier of Rules that the rule is repealed pursuant to this subsection.

3 (b) When an executive order abolishes part or all of an agency and transfers a function
4 of that agency to another agency, a rule concerning the transferred function remains in effect
5 until the agency to which the function is transferred amends or repeals the rule. When an
6 executive order abolishes part or all of an agency and does not transfer a function of that
7 agency to another agency, a rule concerning a function abolished by the executive order is
8 repealed as of the effective date of the executive order. The agency that adopted the rule shall
9 notify the Codifier of Rules that the rule is repealed pursuant to this subsection.

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11 ~~of Rules when a rule is repealed under this section~~ When notified of a rule repealed under this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

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

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

- 19 (1) Rearrange the order of the rule in the Code or the order of the subsections,
20 subdivisions, or other subparts of the rule.
- 21 (2) Provide a catch line or heading for the rule or revise the catch line or
22 heading of the rule.
- 23 (3) Reletter or renumber the rule or the subparts of the rule in accordance with a
24 uniform system.
- 25 (4) Rearrange definitions and lists.
- 26 (5) Make other changes in arrangement or in form that do not change the
27 substance of the rule and are necessary or desirable for a clear and orderly
28 arrangement of the rule.
- 29 (6) Omit from the published rule a map, a diagram, an illustration, a chart, or
30 other graphic material, if the Codifier of Rules determines that the Office of
31 Administrative Hearings does not have the capability to publish the material
32 or that publication of the material is not practicable. When the Codifier of
33 Rules omits graphic material from the published rule, the Codifier must
34 insert a reference to the omitted material and information on how to obtain a
35 copy of the omitted material."

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

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

- 40 (1) Contested tax cases. – A petition for review of a final decision in a contested
41 tax case arising under G.S. 105-241.15 must be filed in the Superior Court of
42 Wake County.
- 43 (2) Other final decisions. – A petition for review of any other final decision
44 under this Article must be filed in the Superior Court of Wake County or in
45 the superior court of the county where the ~~person~~ party who commenced the
46 contested case resides."

47 **SECTION 5.** This act is effective when it becomes law.