

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** HB 968 (PSC)

**SHORT TITLE:** Amend Contested Case Procedure

**SPONSOR(S):** Representatives Nesbitt, Wilson, and Redwine

<b>FISCAL IMPACT</b>					
	<b>Yes ( )</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 1999-00</u></b>	<b><u>FY 2000-01</u></b>	<b><u>FY 2001-02</u></b>	<b><u>FY 2002-03</u></b>	<b><u>FY 2003-04</u></b>
<b>REVENUES</b>					
<b>EXPENDITURES</b>	\$0*	\$0*	\$0*	\$0*	\$0*
<b>POSITIONS:</b>					
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Office of Administrative Hearings (OAH) and State agencies.					
<b>EFFECTIVE DATE:</b> January 1, 2000					
*There is no fiscal impact on OAH, and no reliable means of accessing future fiscal impact on State agencies without more experience with the amended legislation.					

**BILL SUMMARY:**

The House committee substitute substantially rewrites the first edition and makes the changes that are outlined. First, amends GS 150B-2(5) to delete provision prohibiting an agency that makes a final decision or an officer or employee of the agency from petitioning for initial judicial review of that decision. Second, amends GS 150B-34(a), and adds new GS 150B-34(d) to provide that except for exemptions and the certificate of need determinations described below, all agencies subject to GS 150B, Art. 3, are subject to the requirement that the administrative law judge makes a final decision or order with findings of fact and conclusions of law. Third, adds new GS 150B-34(c) to provide that in cases arising under GS Ch. 131E, Art. 9 (health care facility certificate of need determinations) the administrative law judge must make a recommended decision containing findings of fact and conclusions of law. The final decision must be made by the agency after reciting the facts set forth in the recommended decision. If the agency does not adopt a finding of fact, it must state the specific reason for doing so and the

agency findings must be supported by substantial evidence. Fourth, amends GS 150B-35 to remove prohibition that a member or employee of the agency making the final decision may not become involved in an ex parte communication. Fifth, deletes all proposed changes to GS 150B-36 (final decisions). Sixth, amends GS 150B-37 to make conforming changes. Seventh, amends GS 150B-44 to delete provisions requiring agency to make decisions within certain time periods; and makes failure for an administrative law judge or an agency to make a final decision within 180 days after the close of the hearing grounds for a court order compelling action. Eighth, makes conforming changes to GS 150B-47(records), 150B-49 (new evidence), and 150B-50 (review by superior court without jury). Ninth, deletes GS 150B-51(a) [initial determination in certain cases]. Additionally, the legislation makes other conforming changes.

**ASSUMPTIONS AND METHODOLOGY:**

The amendments to existing law give administrative law judges final decision making authority in contested cases, and give agencies the right to pursue judicial review of the final administrative decision in Superior Court, as is currently available to petitioners. For OAH there is no affect on the agency's approach in these cases, and no adjustment in budget requirements to comply with the amended law. Agencies may incur additional cost resulting from the option to pursue judicial review. However, it is not possible to determine the extent to which this would occur without experience with the legislation enacted.

**TECHNICAL CONSIDERATIONS:** none

**FISCAL RESEARCH DIVISION 733-4910**

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**DATE:** Monday, April 26, 1999



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