

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 1224
Judiciary I Committee Substitute Adopted 7/10/02

Short Title: Conforming APA Amendments.

(Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT RECOMMENDATIONS OF THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE TO ALLOW THE OFFICE OF ADMINISTRATIVE HEARINGS TO USE THE INTERNET FOR AGENCY PUBLICATIONS AND TO CONFORM THE ADMINISTRATIVE PROCEDURE ACT TO PROVISIONS OF CHAPTER 12 OF THE GENERAL STATUTES RELATING TO RULES WHICH ESTABLISH OR INCREASE FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 150B-21.24 reads as rewritten:

"§ 150B-21.24. ~~Free copies of~~ Access to Register and Code.

(a) Register. – The Codifier of Rules ~~must distribute copies of the North Carolina Register as soon after publication as practical, without charge, to the following:~~

(1) ~~A person who receives a free copy of the North Carolina Administrative Code.~~

(2) Upon request, one copy to each member of the General Assembly shall make available the North Carolina Register on the Internet at no charge. Upon request the Codifier shall provide a free copy of the current volume of the Register to any person who receives a free copy of the North Carolina Administrative Code or any member of the General Assembly.

(b) Code. – The Codifier of Rules shall make available the North Carolina Administrative Code on the Internet at no charge. The Codifier shall ~~must distribute~~ copies of the North Carolina Administrative Code as soon after publication as practical, without charge, to the following:

(1) One copy to the board of commissioners of each ~~county,~~ county that specifically requests a printed copy, to be placed at the county clerk of court's office or at another place selected by the board of commissioners. The Codifier of Rules is not required to provide a copy

1 of the Administrative Code to any board of county commissioners
2 unless a request is made.

- 3 (2) One copy to the Commission.
- 4 (3) One copy to the Clerk of the Supreme Court and to the Clerk of the
5 Court of Appeals of North Carolina.
- 6 (4) One copy to the Supreme Court Library and one copy to the library of
7 the Court of Appeals.
- 8 (5) One copy to the Administrative Office of the Courts.
- 9 (6) One copy to the Governor.
- 10 (7) ~~Five copies~~ One copy to the Legislative Services Commission for the
11 use of the General Assembly.
- 12 (8) ~~Upon request, one copy to each State official or department to whom
13 or to which copies of the appellate division reports are furnished under
14 G.S. 7A-343.1.~~
- 15 (9) ~~Five copies~~ One copy to the Division of State Library of the
16 Department of Cultural Resources pursuant to G.S. 125-11.7."

17 **SECTION 2.** G.S. 150B-21.1(a) reads as rewritten:

18 "(a) Adoption. – An agency may adopt a temporary rule without prior notice or
19 hearing or upon any abbreviated notice or hearing the agency finds practical when it
20 finds that adherence to the notice and hearing requirements of this Part would be
21 contrary to the public interest and that the immediate adoption of the rule is required by
22 one or more of the following:

- 23 (1) A serious and unforeseen threat to the public health, safety, or welfare.
- 24 (2) The effective date of a recent act of the General Assembly or the
25 United States Congress.
- 26 (3) A recent change in federal or State budgetary policy.
- 27 (4) A federal regulation.
- 28 (5) A court order.
- 29 (6) The need for the rule to become effective the same date as the State
30 Medical Facilities Plan approved by the Governor, if the rule addresses
31 a matter included in the State Medical Facilities Plan.

32 An agency must prepare a written statement of its findings of need for a temporary
33 rule. If the temporary rule establishes a new fee or increases an existing fee, the agency
34 shall include in the written statement that it has complied with the requirements of
35 G.S. 12-3.1. The statement must be signed by the head of the agency adopting the rule."

36 **SECTION 3.** G.S. 150B-21.1(b) reads as rewritten:

37 "(b) Review. – When an agency adopts a temporary rule it must submit the rule
38 and the agency's written statement of its findings of the need for the rule to the Codifier
39 of Rules. Within one business day after an agency submits a temporary rule, the
40 Codifier of Rules must review the agency's written statement of findings of need for the
41 rule to determine whether the statement of need meets the criteria listed in subsection
42 (a) or (a1) of this section. In reviewing the statement, the Codifier of Rules may
43 consider any information submitted by the agency or another person. If the Codifier of

1 Rules finds that the statement meets the criteria, the Codifier of Rules must notify the
2 head of the agency and enter the rule in the North Carolina Administrative Code.

3 If the Codifier of Rules finds that the statement does not meet the criteria, the
4 Codifier of Rules must immediately notify the head of the agency. The agency may
5 supplement its statement of need with additional findings or submit a new statement. If
6 the agency provides additional findings or submits a new statement, the Codifier of
7 Rules must review the additional findings or new statement within one business day
8 after the agency submits the additional findings or new statement. If the Codifier of
9 Rules again finds that the statement does not meet the criteria listed in subsection (a) or
10 (a1) of this section, the Codifier of Rules must immediately notify the head of the
11 agency.

12 If an agency decides not to provide additional findings or submit a new statement
13 when notified by the Codifier of Rules that the agency's findings of need for a rule do
14 not meet the required criteria, the agency must notify the Codifier of Rules of its
15 decision. The Codifier of Rules must then enter the rule in the North Carolina
16 Administrative Code on the sixth business day after receiving notice of the agency's
17 decision. Notwithstanding any other provision of this subsection, if the agency has not
18 complied with the provisions of G.S. 12-3.1, the Codifier of Rules shall not enter the
19 rule into the Code."

20 **SECTION 4.** G.S. 150B-21.19 reads as rewritten:

21 "**§ 150B-21.19. Requirements for including rule in Code.**

22 To be acceptable for inclusion in the North Carolina Administrative Code, a rule
23 must:

- 24 (1) Cite the law under which the rule is adopted.
- 25 (2) Be signed by the head of the agency or the rule-making coordinator for
26 the agency that adopted the rule.
- 27 (3) Be in the physical form specified by the Codifier of Rules.
- 28 (4) Have been approved by the Commission, if the rule is a permanent
29 rule.
- 30 (5) Have complied with the provisions of G.S. 12-3.1, if the rule
31 establishes a new fee or increases an existing fee."

32 **SECTION 5.** G.S. 150B-21.3 is amended by adding a new subsection to
33 read:

34 "(c1) Fees. – Notwithstanding any other provision of this section, a rule that
35 establishes a new fee or increases an existing fee shall not become effective until the
36 agency has complied with the requirements of G.S. 12-3.1."

37 **SECTION 6.** This act is effective when it becomes law.