

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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HOUSE BILL 165\*

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

Sponsors: Representative Murry (Primary Sponsor).

*For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*

Referred to: Judiciary Subcommittee A.

February 28, 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32 (a) When a law that authorizes an agency to adopt a rule is repealed and another law  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



1 same or another agency substantially the same authority to adopt a rule, a rule adopted under  
2 the repealed law is repealed as of the date the law is repealed. The agency that adopted the rule  
3 shall notify the Codifier of Rules that the rule is repealed pursuant to this subsection.

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9 repealed as of the effective date of the executive order.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10 notify the Codifier of Rules that the rule is repealed pursuant to this subsection.

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12 ~~of Rules when a rule is repealed under this section.~~ When notified of a rule repealed under this  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

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

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

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

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

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

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

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