



SENATE BILL 16: Amend Administrative Procedure Laws.

2017-2018 General Assembly

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| Committee: | Senate Rules and Operations of the Senate | Date: | February 22, 2017 |
| Introduced by: | Sens. Wells, Barringer, Daniel | Prepared by: | Jeffrey Hudson |
| Analysis of: | Second Edition | | Legislative Analyst |

OVERVIEW: Senate Bill 16 would:

- *Authorize agencies to make rule technical corrections without review by the Rules Review Commission and authorize the Codifier of Rules to make rule technical corrections.*
- *Clarify that a party may commence a contested case in a dispute with an agency without petitioning the agency for rule making or seeking or obtaining a declaratory ruling.*
- *Revise the process for the review and periodic readoption of existing rules.*

BACKGROUND: Senate Bill 16 consists of several recommendations from the Joint Legislative Administrative Procedure Oversight Committee (APO) to the 2017 Regular Session of the 2017 General Assembly. These recommendations were proposed to APO by the Office of Administrative Hearings and the Rules Review Commission.

BILL ANALYSIS:

Sections 1.1 and 1.2: Authorize Rule Technical Changes

Under current law, an agency can make certain types of technical changes to its rules without publishing notice of the text in the North Carolina Register or holding a public hearing, but such a change must still be submitted to the Rules Review Commission.

Section 1.1 would provide that these technical changes would not need to be submitted to the Rules Review Commission.

Section 1.2 would authorize the Codifier of Rules to make certain types of technical changes to an agency's rules. The Codifier could only do this after consulting with the agency.

Sections 2.1 and 2.2: Clarify Contested Case Policy

Under current law, a person aggrieved by an agency action is not required to petition the agency for rule making or to seek or obtain a declaratory ruling before seeking judicial review.

Section 2.1 would provide that a person aggrieved by an agency action is not required to petition the agency for rule making or to seek or obtain a declaratory ruling before commencing a contested case.

Section 2.2 would make a conforming change.

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Section 3: Amend Periodic Review of Rules Process

Under the current process for the periodic review of rules, agencies must classify their rules as necessary with substantive public interest, necessary without substantive public interest, or unnecessary. Agencies must then readopt the rules that were classified as necessary with substantive public interest. Such rules are subject to notice and public comment requirements and review by the Rules Review Commission. Rules that are classified as unnecessary or necessary without substantive public interest are not subject to readoption.

Section 3 would eliminate the category of necessary without substantive public interest so that all rules would be classified as either necessary or unnecessary. Rules that are classified as necessary would be subject to readoption.

EFFECTIVE DATE: Senate Bill 16 would be effective when it becomes law. The revisions to the process for the review and periodic readoption of existing rules would apply to agency rule reports submitted to the Office of Administrative Hearings on or after May 1, 2017.