



# HOUSE BILL 590: Amend Administrative Procedure Laws.

2019-2020 General Assembly

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<b>Committee:</b>	Senate Judiciary. If favorable, re-refer to Finance. If favorable, re-refer to Rules and Operations of the Senate	<b>Date:</b>	June 27, 2019
<b>Introduced by:</b>	Reps. Riddell, Stevens, Hardister, Floyd	<b>Prepared by:</b>	Amy Darden
<b>Analysis of:</b>	Third Edition		Committee Counsel

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**OVERVIEW:** *House Bill 590 would make various changes to State administrative procedure laws..*

**BACKGROUND:** Parts I, II, and III of House Bill 590 comprise 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:**

### **Part I: 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.(a) would provide that these technical changes would not need to be submitted to the Rules Review Commission.

Section 1.(b) 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.

### **Part II: 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.(a) 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.(b) would make a conforming change.

### **Part III: 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.

Karen Cochrane-Brown  
Director



Legislative Analysis  
Division  
919-733-2578

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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.

This Part would be effective when it becomes law and would apply to agency rule reports submitted to the Office of Administrative Hearings pursuant to G.S. 150B-21.3A(c)(1) on or after October 1, 2019.

**EFFECTIVE DATE:** Except as otherwise provided, the act would be effective when it becomes law.

\*Jeff Hudson, Amy Darden, and Brad Krehely, Staff Attorneys for the Legislative Analysis Division, contributed substantially to the drafting of this summary.