



# HOUSE BILL 590: Amend Administrative Procedure Laws.

2019-2020 General Assembly

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<b>Committee:</b>	House Judiciary. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	April 15, 2019
<b>Introduced by:</b>	Reps. Riddell, Stevens, Hardister, Floyd	<b>Prepared by:</b>	Brad Krehely
<b>Analysis of:</b>	PCS to First Edition H590-CSRNf-9		Committee Co-Counsel

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**OVERVIEW:** *The Proposed Committee Substitute (PCS) for House Bill 590 would make various changes to State administrative procedure laws. The PCS adds Part IV which would merge the barber and electrolysis boards based on language that appears in the First Edition of Senate Bill 473- Various OLB and Administrative Law Changes (2019 Session). The PCS also clarifies in Part I that an "email address" could be changed by the Codifier of Rules without submitting the change to the Rules Review Commission.*

**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.

Part IV would merge the barber and electrolysis boards. The State Board of Barber Examiners was originally established in the 1920s. "The Practice of Barbering" is any part of combination of shaving or trimming the beard or cutting hair, dyeing the hair or applying hair tonics, permanent waving or marcelling the hair, or giving facial or scalp massages, or treatments with oils, creams, lotions or other preparations either by hand or mechanical appliances. The provisions governing the licensure of barbers are contained in Chapter 86A of the General Statutes.

The North Carolina Board of Electrolysis Examiners was established in 1989. "Electrology" is the practice of hair removal by application of an electric current to the hair papilla by means of a needle so as to cause growth inactivity and thus permanently remove the hair. The provisions governing the licensure of electrologists and laser-hair practitioners are contained in Chapter 88A of the General Statutes.

## **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.

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## **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.

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.

## **Part IV: Merger of Barber and Electrolysis Board**

This Part would consolidate the State Board of Barber Examiners and the Board of Electrolysis Examiners into a single board to be known as the "North Carolina Board of Barber and Electrolysis Examiners." There are no major changes to the powers of the Board, licensure requirements, or fees unless specifically noted. The PCS amends definitions, uses the term "licensed" instead of "registered," and makes other technical and conforming changes.

**Board Composition.** – The combined Board would consist of seven members as follows:

- Four licensed barbers.
- One electrologist who has engaged in the practice of electrolysis for at least five years.
- One physician licensed under Chapter 90 of the General Statutes, who shall be nominated by the North Carolina Medical Board.
- One public member, not licensed under this chapter or under Chapter 90 of the General Statutes.

**Fees.** – The fees are the same as under the current law with 3 exceptions:

- The fee for an initial license for electrolysis and laser, light source, and pulsed-light treatment would decrease from \$150 to \$125 – G.S. 86B-31(2).
- The fee for an examination or reexamination for electrolysis and laser, light source, and pulsed-light treatment would increase from \$125 to \$150 – G.S. 86B-31(3).
- The bill would establish a temporary permit for barbers at a fee of \$25.00.

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**Transitional Provisions.** – Sections 4.3 through 4.5 of the bill consist of various transitional provisions to address the handling of existing licenses, applications, and rules, the property and assets, and any pending litigation and disciplinary proceedings under the authority of the individual boards.

The initial appointments to the Board would become effective when the act becomes law. The remainder of this Part would become effective January 1, 2020, and would apply to applications for licensure, examination, and renewal submitted on or after that date.

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

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