



HOUSE BILL 590: Amend Administrative Procedure Laws.

2019-2020 General Assembly

Committee:		Date:	December 12, 2019
Introduced by:		Prepared by:	Brad Krehely Staff Attorney
Analysis of:	S.L. 2019-140		

OVERVIEW: *S.L. 2019-140 makes the following changes to State administrative procedure laws:*

- *Provides that an agency may make certain technical changes to its rules without submitting the changes to the Rules Review Commission.*
- *Permits the Codifier of Rules to make certain technical changes to an agency's rules.*
- *Amends the process for the periodic review of rules so that all rules are classified as necessary or unnecessary. Rules classified as necessary are subject to reoption.*

The amendments to the process for the periodic review of rules became effective July 19, 2019, and apply to agency rule reports submitted to the Office of Administrative Hearings on or after October 1, 2019. The remainder of the act became effective July 19, 2019.

BACKGROUND: Parts I, II, and III of S.L. 2019-140 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) provides that these technical changes would not need to be submitted to the Rules Review Commission.

Section 1.(b) authorizes 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) provides 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) makes a conforming change.

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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 eliminates the category of necessary without substantive public interest so that all rules are classified as either necessary or unnecessary. Rules that are classified as necessary are subject to readoption.

This Part became effective July 19, 2019, and applies 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 became effective July 19, 2019.

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