



HOUSE BILL 361: APA Rules Review Definitions.

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2021-2022 General Assembly

Committee:	House Regulatory Reform. If favorable, re-refer to Judiciary 1. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 22, 2021
Introduced by:	Reps. Moffitt, Johnson, Paré, Wray	Prepared by:	Jeremy Ray
Analysis of:	PCS to First Edition H361-CSBH-8		Committee Co-Counsel

OVERVIEW: *The PCS to House Bill 361 would provide that any policy that an agency attempts to implement as a rule is unenforceable unless adopted as a rule in accordance with the provisions of Chapter 150B, the Administrative Procedure Act.*

CURRENT LAW: Under G.S. 150B-18, an agency shall not seek to implement or enforce against any person a policy, guideline, or other interpretative statement that meets the definition of a rule, if the policy guideline, or other interpretive statement has not been adopted as a rule in accordance with Article 2A of Chapter 150B.

Under G.S. 150B-2, a rule is defined as any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency.

A rule does not include certain policies issued by an agency if that policy is a nonbinding interpretive statement within the delegated authority of the agency that merely defines, interprets, or explains the meaning of a statute or rule.

BILL ANALYSIS: House Bill 361 would modify the current definition of policy under G.S. 150B-2, to provide that any policy that an agency attempts to implement as a rule shall be unenforceable unless it is adopted as a rule.

It would also make conforming and technical changes to G.S. 150B-2.

EFFECTIVE DATE: This act would become effective when it becomes law.

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