

Section 120.574

CHAPTER 96-159

Section 1. It is the intent of the Legislature to consider the impact of any agency rulemaking required by proposed legislation and to determine whether the proposed legislation provides adequate and appropriate standards and guidelines to direct the agency's implementation of the proposed legislation.

Section 21. Section 120.574, Florida Statutes, is created to read:

120.574 Summary hearing

(1)(a) Within 5 business days following the division's receipt of a petition or request for hearing, the division shall issue and serve on all original parties an initial order that assigns the case to a specific administrative law judge and provides general information regarding practice and procedure before the division. The initial order shall also contain a statement advising the addressees that a summary hearing is available upon the agreement of all parties under subsection (2) and briefly describing the expedited time sequences, limited discovery, and final order provisions of the summary procedure.

(b) Within 15 days after service of the initial order, any party may file with the division a motion for summary hearing in accordance with subsection (2). If all original parties agree, in writing, to the summary proceeding, the proceeding shall be conducted within 30 days of the agreement, in accordance with the provisions of subsection (2).

(c) Intervenors in the proceeding shall be governed by the decision of the administrative law judge regarding whether the case will proceed in accordance with the summary hearing process and shall not have standing to challenge that decision.

(d) If a motion for summary hearing is not filed within 15 days after service of the division's initial order, the matter shall proceed in accordance with ss. 120.569 and 120.57.

(2) In any case to which this subsection is applicable, the following procedures apply:

(a) Motions shall be limited to the following:

1. A motion in opposition to the petition.

2. A motion requesting discovery beyond the informal exchange of documents and witness lists described in paragraph (b). Upon a showing of necessity, additional discovery may be permitted in the discretion of the administrative law judge, but only if it can be completed not later than 5 days prior to the final hearing.

3. A motion for continuance of the final hearing date.

4. A motion requesting a prehearing conference, or the administrative law judge may require a prehearing conference, for the purpose of identifying: the legal and factual issues to be considered at the final hearing; the names and addresses of witnesses who may be called to testify at the final hearing; documentary evidence that will be offered at the final hearing; the range of penalties that may be imposed upon final hearing; and any other matter that the administrative law judge determines would expedite resolution of the proceeding. The prehearing conference may be held by telephone conference call.

5. During or after any preliminary hearing or conference, any party or the administrative law judge may suggest that the case is no longer appropriate for summary disposition. Following any argument requested by the parties, the administrative law judge may enter an order referring the case back to the formal adjudicatory process described in s. 120.57(1), in which event the parties shall proceed accordingly.

(b) Not later than 5 days prior to the final hearing, the parties shall furnish to each other copies of documentary evidence and lists of witnesses who may testify at the final hearing.

(c) All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, and to be represented by counsel or other qualified representative.

(d) The record in a case governed by this subsection shall consist only of:

1. All notices, pleadings, motions, and intermediate rulings.
2. Evidence received.
3. A statement of matters officially recognized.
4. Proffers of proof and objections and rulings thereon.
5. Matters placed on the record after an ex parte communication.
6. The written decision of the administrative law judge presiding at the final hearing.
7. The official transcript of the final hearing.

(e) The agency shall accurately and completely preserve all testimony in the proceeding and, upon request by any party, shall make a full or partial transcript available at no more than actual cost.

(f) The decision of the administrative law judge shall be rendered within 30 days after the conclusion of the final hearing or the filing of the transcript thereof, whichever is later. The administrative law judge's decision, which shall be final agency action subject to judicial review under s. 120.68, shall include the following:

1. Findings of fact based exclusively on the evidence of record and matters officially recognized.
2. Conclusions of law.
3. Imposition of a fine or penalty, if applicable.
4. Any other information required by law or rule to be contained in a final order.

(g) For a period of 2 years following the effective date of this act, the division shall maintain a register of the total number of formal proceedings filed with the division under s. 120.57(1).

CHAPTER 97-176

Section 10. Paragraph (c) of subsection (1) of section 120.574, Florida Statutes, 1996 Supplement, is amended to read:

120.574 Summary hearing.—

(1)

(c) Intervenors in the proceeding shall be governed by the decision of the original parties ~~administrative law judge~~ regarding whether the case will proceed in accordance with the summary hearing process and shall not have standing to challenge that decision.

CHAPTER 2000-158

Section 11. Paragraph (g) of subsection (2) of section 120.574, Florida Statutes, is repealed.

Reviser's note.—Repeals a provision requiring maintenance of a register of the total number of formal proceedings filed with the Division of Administrative Hearings for a period of 2 years following October 1, 1996.

CHAPTER 2000-336

Section 10. Paragraph (g) of subsection (2) of section 120.574, Florida Statutes, is repealed.