

2003 SUMMARY OF AMENDMENTS TO CHAPTER 120

Chapter 2003-36, Laws of Florida, amended §120.80(1), F.S., to provide that hearings under chapter 443 be conducted by the Unemployment Appeals Commission in unemployment compensation appeals, unemployment compensation appeals referees, and the Agency for Workforce Innovation or its special deputies rather than by an administrative law judge assigned by the Division. Appeal proceedings conducted under chapter 443 by the Unemployment Appeals Commission or unemployment appeals referees were exempted from the uniform rules of procedure. Other amendments reflected the transfer of certain duties of the Department of Labor and Employment Security to the Agency for Workforce Innovation and the transfer of judges of workers' compensation claims under chapter 440 to the Division of Administrative Hearings.

Chapter 2003-94, Laws of Florida, amended the definition of invalid exercise of delegated legislative authority in §120.52(8), F.S., and §120.56(1), F.S., to clarify that administrative rule challenge proceedings are conducted de novo and are not a review of evidence that was earlier before the agency. It amended 120.54(1), F.S., to create an expedited rule adoption process applicable to the Department of Environmental Protection and the water management districts when adopting changes made to the other agency's Environmental Resource Permitting rules that have been previously incorporated by reference. The law amended §120.56, F.S., confirming that the burden of proof is on the petitioner when challenging an existing rule, restating that the standard of proof in all rule challenge proceedings is a preponderance of the evidence, and detailing additional procedures governing challenges to unadopted policy statements. The law also amended §§120.569 and 120.57, F.S., to require initial scheduling orders on the request of any party; to require the administrative law judge to relinquish jurisdiction upon motion if the judge determines no genuine issue as to any material fact exists; and to allow an agency to decline to rule on exceptions to a recommended order that are not identified clearly. Section 120.595, F.S., was amended to redefine the term "improper purpose" to include participation in a proceeding to needlessly increase the cost of litigation. The law also amended §120.60, F.S., to revise procedures applicable to default licensure.

Chapter 2003-145, Laws of Florida, amended §120.551, F.S., to eliminate the internet publication pilot project. It provided that notices required to be published in the Florida Administrative Weekly by the Department of Environmental Protection and the

Board of Trustees of the Internal Improvement Trust Fund shall instead be published on an Internet website with specified features. The law also provided for the repeal of §120.551, F.S., on July 1, 2004, unless it is reenacted before that date.

Chapter 2003-261, Laws of Florida, amended §§120.52(15)(c)2., 120.80(3), and 120.80(9) to conform the Administrative Procedure Act to recently adopted Article IV, Section 4 of the State Constitution and to chapter 2002-404, Laws of Florida, relating to Florida's new financial management structure. References to the former Department of Banking and Finance and the Department of Insurance were replaced with references to appropriate elements within the Department of Financial Services.

Chapter 2003-286, Laws of Florida, amended §120.52(1), F.S., to exempt metropolitan planning organizations and any separate legal or administrative entity created pursuant to §339.175, F.S., that have a metropolitan planning organization as a member from the definition of “agency” under the Act.

Chapter 2003-416, Laws of Florida, created s. 120.651, F.S., which requires the Division of Administrative Hearings to designate at least two administrative law judges with special expertise in health care issues who shall preside over actions involving the Department of Health or boards within the Department of Health. Effective date: September 15, 2003.