
LEGISLATIVE SUMMARY

The Administrative Procedures Act, Chapter 120, is completely revised in a manner similar to Senate Bill 490 with the major differences being:

1. Prior to adoption of a rule, notice shall be given to all persons who have asked to be put on the mailing list at least 14 days prior to the mailing, in addition to persons named in the rule, and publication in the Florida Administrative Weekly.
2. Rules promulgated under the abbreviated procedure are effective for not longer than 90 days (instead of 45 with provision for extension) and are not reviewable.
3. The Administration Commission (instead of the Attorney General) is required to prepare model rules of procedure for use by agencies. Such rules are to be based on the Florida Rules of Civil Procedure. Within 90 days of promulgation, such rules shall be “adopted”, but they may be amended by an agency where necessary to receive federal funds or federal tax benefits or as required for efficient operation.
4. The Committee name is changed to the Joint Administrative Rule Review Committee (instead of the Joint Administrative Procedures Committee).
5. Each agency is required, prior to giving notice of its intended action and again after the final public hearing on a proposed rule, or after the time for requesting a hearing has expired, if it proposes to adopt the rule, to file with the Joint Administrative Rule Review Committee a copy of the rule, a detailed written statement of the facts and circumstances justifying the rule. The Committee examines the rule to determine if it carries out legislative intent, and it shall approve or disapprove the rule within 30 days. The Committee may consult with the committee having subject matter expertise in each chamber. If it disapproves the rule, the Committee certifies the fact to the proposing agency, together with a detailed statement of its reasons, and the agency has 30 days to modify the rule, withdraw it or refuse to recede from its position. Modified rules are resubmitted and get priority. Failure of the agency to act within 30 days constitutes withdrawal. On approval or refusal of the agency to recede from its position, the Committee staff transmits a summary of the rule to the adopting agency for filing with the Department of State and publication in the Administrative Weekly, and the agency files the rule it proposes to adopt with the Department of State. The rule is adopted on publication. If the agency adopts the rule after refusing to recede from its position, the Committee’s detailed statement of objections is also published in the Weekly.

6. There is created an Office of Administrative Hearings, within the Administration Commission, headed by a Director appointed by the Administration Commission and confirmed by the Senate (Senate Bill 490 had a Division of Administrative Hearings within the Department of General Services). Budget and budget requests of the office are included in that of the Department of Administration but not under the control of either the Department or the Administration Commission. The exemption from any process or proceeding from the provisions of this act may be granted by the Administration Commission under specified conditions (instead of the Governor by executive order).

7. Creates §11.60 establishing the Joint Administrative Rule Review Committee, composed of three members of each House appointed by President and Speaker. In odd years the Chairman is appointed by the President of the Senate and the Vice Chairman by the Speaker of the House; in even years the procedure is reversed. The Committee is directed to continuously monitor the statutes, and whenever repeal, amendment or a holding by a court of last resort significantly changes the statutory authority on which a rule is based, the Committee is required to advise the agency concerned of the fact. The Committee has the duties prescribed by Chapter 120 concerning the adoption of rules, and is charged with reviewing agency action. The Committee is required to report to the legislature at least annually and recommend needed legislation. The Committee appoints an Executive Director/General Counsel by majority vote and makes rules and regulations for its own operation. The Committee has general administrative responsibility for its staff; its expenses are paid from the legislative appropriation.

8. The legislative intent is: to replace all existing administrative procedure statutes relating to rule making, agency orders or adjudication, and the Division of Statutory Revision is directed to prepare a reviser's bill to conform the language of existing statutes.

9. Contains a savings clause for administrative adjudicatory proceedings in process on the effective date of this act, but those which have not reached the hearing stage may be conducted according to the new procedures, with the consent of all parties and the agency involved.

10. All rules in effect on October 1, 1974, and not published in the Florida Administrative Code become void October 1, 1975; however, on written request by a substantially affected person prior to July 1, 1975, the agency concerned must forthwith review the rule and initiate the rule making procedure within 90 days or the operation of the rule is suspended.

11. Rules in effect on October 1, 1974, except those adopted after a public hearing, must also be reviewed by the agency upon request and the rule making procedure initiated within

90 days following receipt of such request by a substantially affected person. No request may be made after July 1, 1975.

12. Section 120.65 takes effect January 1, 1975, the remainder on October 1, 1974.

13. Section 214.25, relating to judicial review of tax assessments is not amended in this bill as was done in Senate Bill 490.