

Senate Bill 860, including amendments proposed by the Committee on Governmental Operations in the House of Representatives, makes the following changes in Chapter 120:

(Page 2, lines 11 and 12)

120.52(1)(b) Joint Electric Power Supply Projects are exempted from all provisions of the Act. (Senate)

(Page 2, line 19)

120.52(13) The distinction between "recommended" and "proposed" orders is eliminated, thus making orders proposed by any presiding officer of a hearing subject to exceptions and binding the agency head to these orders to the same extent that he is bound by a recommended order of a hearing officer from the DOAH. (House)

(Page 2, lines 29-30 and Page 3, lines 1-3)

120.52(14) Agency action setting hunting or fishing seasons is eliminated from the required rulemaking procedures and alternative notice procedures are provided. (House)

(Page 3, lines 20-22)

120.54(1)(b) Clarifies the requirement that proposed rules be available for public inspection and copying at the time of notice. (House)

(Page 3, lines 23-29 and Page 4, lines 1-18)

120.54(2)(a) Revises the content of statements of economic impact to eliminate the requirement that "professionally accepted methodology" be used in the preparation of these statements and specifies that the required material shall consist of estimates of the costs to the agency in the implementation of the rule,

the costs or economic benefit to all persons affected by the rule, and the impact on competition and the open market for employment, if applicable. A detailed statement of the data and method used in making these estimates is required. (Senate)

(Page 3, line 27 and Page 4, lines 12-18)

120.54(2)(a)(c) A House amendment adds the word "detailed" to the requirement for statements of economic impact and provides that failure to provide an adequate statement of economic impact is grounds for holding the rule invalid. However, beginning October 1, 1978, rules shall not be declared invalid for want of an adequate economic impact statement unless the challenge is brought within one year of the effective date of the rule. (House)

(Page 4, lines 25-31)

120.54(3) Clarifies the agency's authority to hold public hearings on a proposed rule without a request from an affected person and requires that the opportunity to be heard be in the form of a public hearing if requested by an affected person. Allows the agency to consider material submitted to it within 14 days after the notice of rulemaking and makes such material part of the record of the proceeding. (House)

(Page 5, line 4)

120.54(7) Specifies that the law implemented by an administrative rule must be a section or subsection of the Florida Statutes or the Laws of Florida. (Senate)

(Page 5, lines 24-31)

120.54(10) Redesignates this subsection as section 120.67(1) and adds a new subsection (2) to require the Administration Commission to promulgate model rules to provide procedures for multi-tiered administrative procedures. These new model rules are to take effect January 2, 1979. (House)

(Page 6, lines 17-20)

120.54(11)(b) Clarifies the period during which a proposed rule must be filed in cases in which there is a public hearing, but no additional material is authorized to be submitted and no transcript is made. (Senate)

(Page 7, lines 4-6)

120.54(12)(b) Requires notice in the F.A.W. of an agency's decision to modify or withdraw an adopted rule in response to a Committee objection or to extend an effective date in response to a proposed objection. (House)

(Page 8, lines 1-10)

120.55(1)(b) Adds university rules relating to internal personnel or business and finance to the category of rules not required to be published in the Florida Administrative Code. Requires the Department of State to publish a summary or listing of all rules filed with the Department but not required to be published in the Code and to state where the rules may be examined. (House)

(Page 8, lines 18-20)

120.55(3)(a) Adds the Division of Administrative Hearings to the list of agencies receiving three free copies of the Florida Administrative Code and the Florida Administrative Weekly and increases the number of copies of each distributed to the Supreme Court and to each District Court of Appeal from one to four. (House)

(Page 8, lines 27-30 and Page 9, lines 1-5)

120.56(5) Provides for the review of emergency rules in administrative determination proceedings and sets time schedules for expeditious consideration. (House)

(Page 9, lines 10-14)

120.565 Limits declaratory statements to the agency's opinion as to the applicability of a rule or statute to the petitioner in his particular set of circumstances. (Senate)

(Page 10, lines 14-15)

120.57(1)(a)8. Exempts parole interviews and hearings from the requirement that they be conducted by a hearing officer from the DOAH. (House)

(Page 10, lines 11-14)

120.57(1)(b)2. Reduces the 14 day notice requirement for preliminary parole revocation hearings to 7 days

and the notice for the revocation hearings to 5 days.  
(House)

(Page 10, lines 20-30 and Page 11, lines 1-6)

120.57(1)(b)8. Refers to newly created subparagraph 13. which provides that the comptroller's discretion in matters relating to the granting of licenses for new banks and other financial institutions is not limited by the DOAH hearing officer's recommended order. In these hearings the hearing officer will submit a "report," to which exceptions may be filed within ten days, rather than a "recommended order." (House)

(Page 11, lines 23-25)

120.58(1)(e) The right to file exceptions and present argument prior to the final order in parole granting proceedings and in preliminary hearings on parole revocations is eliminated. (House)

(Page 12, lines 1-20)

120.58(3) Language purporting to give an agency authority to hold a person in contempt of the agency is deleted and the authority of the agency to seek enforcement of subpoenas and discovery orders in the circuit courts is clarified. Provisions for an alternative fine of not more than \$500 for violation of court orders is deleted. (House)

(Page 13, lines 1-29 and Page 14, lines 1-8)

120.60(3) The exemption from the provisions of sections 120.57(1) and 120.58 for the comptroller's proceedings relating to licensing of financial institutions and approving mergers is rescinded except that provisions permitting the general public to request hearings on these actions is retained with the added proviso that failure to request a hearing within 21 days constitutes a waiver of the right to the hearing and requires the applicant to publish newspaper notice of these hearings at his own expense. The extension of the 90-day period during which a license must be granted or denied to 180 days is also retained. (House)

(Page 14, lines 16-18)

120.60(5) Permits constructive service of notice of license revocation when actual or certified mail service is unobtainable. (House)

(Page 14, line 26)

120.65(2) Increases the 3-year Bar membership requirement for hearing officers employed by the DOAH to 5 years. (House) .

(Page 15, lines 2-30 and Page 16, lines 2-3)

120.66 Extends the ex-parte communication restrictions to communications made to the "presiding officer" of a 120.57 hearing and restricts the exemption for advisory staff members who do not testify to those who do not testify "on behalf of the agency." (House)

(Page 16, lines 17-22)

120.68(3) Provides that a petition to an agency for a stay is not a prerequisite to a petition to the court for a supercedeas in the enforcement of agency decisions. (Senate)

(Page 16, line 27)

120.71 Provides that, notwithstanding the requirement of section 112.3143 that members of collegial bodies vote and later disclose conflicts of interest, agency heads or members of agency heads may be disqualified from serving in agency proceedings for the same causes for which a judge may be recused. (Senate)

(Page 17, lines 9-26)

120.72 Obsolete material is deleted. (House)

(Page 18, lines 7-13)

120.73 Obsolete material is deleted. (House)

(Page 18, lines 15-19)

Section 15. Grandfather clause for license hearings added. (House)