

SUMMARY OF CHANGES IN CHAPTER 120

1986 LEGISLATIVE SESSION

Three laws were enacted during the 1986 Legislative Session making changes to Chapter 120, Florida Statutes: Chapters 86-30, 86-108 and 86-297, Laws of Florida.

The following summary of changes was prepared by the staff of the House Governmental Operations Committee in the Joint Legislative Management Summary of General Legislation, 1986.

I. Chapter 86-30, Laws of Florida

This chapter extends the time limits for rulemaking proceedings and adds an additional week for the procedures concerning the adoption of rules under Chapter 120, F.S. In amending subparagraph 120.54(1)(a)3., F.S., it provides that the publication, mailing, and posting of the notice of the adoption, amendment, or repeal of any nonemergency rule shall occur at least 21 days prior to the intended action. Pursuant to revised paragraph 120.54(1)(b), F.S., the notice is required to be published in the Florida Administrative Weekly not less than 28 days prior to the intended action. Pursuant to amended paragraph 120.54(3)(a), F.S., an affected person may request an opportunity to be heard and submit pertinent material within 21 days of the publication of the notice for rules dealing with actions other than those relating exclusively to organization, procedure, or practice.

The act also amends paragraph 120.54(4)(b), F.S., to extend to 21 days the time for submission of a request by a substantially affected person for a determination that a proposed rule is an invalid exercise of delegated legislative authority.

Under the amended provisions of paragraph 120.54(4)(c), F.S., in this act no rule may be filed for adoption until 28 days after the notice is made. Finally, the act allows, by revising paragraph 120.54(13)(b), F.S., the agency to change its rule prior to adoption in response to any written material received by the agency within 21 days of the notice.

The act takes effect October 1, 1986.

II. Chapter 86-108, Laws of Florida

This chapter provides in adding subparagraph 120.57(1)(b)5., F.S., that all pleadings, motions, or other papers filed in an

administrative proceeding under section 120.57(1), F.S., must be signed by the party, his attorney or his qualified representative. Such signature acts as a certification that the signatory has read the pleadings, etc., and that to the best of his knowledge the pleadings, etc., are not interposed for any improper purpose such as harassment, unnecessary delay, frivolous purpose or needless increase in the cost of litigation. This act also authorizes the imposition by the hearing officer of reasonable expenses for violation of these provisions.

The act provides in new subsection 120.57(6), F.S., time limits for expedited review for petitions challenging the issuance of a construction or operating permit which implements a conceptual review permit issued by a water management district.

### III. Chapter 86-297, Laws of Florida

This chapter amends several provisions concerning the Division of Administrative Hearings of the Department of Administration. The act amends section 120.65, F.S., to repeal the Division's exemption to Chapter 216, F.S., which had established the Division as a separate budget entity, and reemphasized that the Division was not subject to the control, supervision, or direction of the Department of Administration. It provides that the Division has the right to appeal to the Administration Commission any action taken by the Executive Office of the Governor which affects amendments to the Division's operating budget or Chapter 216, F.S., personnel actions. The Appropriations Committees may act in an advisory capacity to the Commission and the President of the Senate and Speaker of the House also may object in writing on these issues. Under the provisions of this act all state agencies, as defined in Chapter 216, F.S., and all political subdivisions are required to make their meeting facilities available for use by the Division at a time convenient to those agencies and subdivisions.

Subsection 216.023(2), F.S., is also amended to require the Division to submit its final budget request directly to the Legislature and the provisions are included in new subsection 216.181, F.S., which establish the annual salary rate for Division personnel directly in the General Appropriations Act or in the Statement of Intent.