

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL DRS15032-MC-52

Short Title: OAH Technical Changes.-AB (Public)

Sponsors: Senators Moffitt, Sawrey, and Daniel (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT FOR TECHNICAL CHANGES RELATED TO VARIOUS ADMINISTRATIVE
3 LAW PROVISIONS OF THE GENERAL STATUTES, AS REQUESTED BY THE
4 OFFICE OF ADMINISTRATIVE HEARINGS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 150B-21.1A(a) reads as rewritten:

7 "(a) Adoption. – An agency may adopt an emergency rule ~~without prior notice or hearing~~
8 ~~or upon any abbreviated notice or hearing the agency finds practical following notice to its~~
9 mailing list maintained pursuant to G.S. 150B-21.2(d) when it finds that adherence to the notice
10 and hearing requirements of this Part would be contrary to the public interest and that the
11 immediate adoption of the rule is required by a serious and unforeseen threat to the public health
12 or safety. When an agency adopts an emergency rule, it must simultaneously commence the
13 process for adopting a temporary rule by submitting the rule to the Codifier of Rules for
14 publication on the Internet in accordance with G.S. 150B-21.1(a3). The Department of Health
15 and Human Services or the appropriate rule-making agency within the Department may adopt
16 emergency rules in accordance with this section when a recent act of the General Assembly or
17 the United States Congress or a recent change in federal regulations authorizes new or increased
18 services or benefits for children and families and the emergency rule is necessary to implement
19 the change in State or federal law."

20 **SECTION 2.** G.S. 150B-21.7 reads as rewritten:

21 **§ 150B-21.7. Effect of transfer of duties or termination of agency on rules.**

22 (a) When a law that authorizes an agency to adopt a rule is repealed and another law gives
23 the same or another agency substantially the same authority to adopt a rule, the rule remains in
24 effect until the agency with authority over the rule amends or repeals the rule. When a law that
25 authorizes an agency to adopt a rule is repealed and another law does not give the same or another
26 agency substantially the same authority to adopt a rule, a rule adopted under the repealed law is
27 repealed as of the date the law is repealed. The agency that adopted the rule shall notify the
28 Codifier of Rules that the rule is repealed pursuant to this ~~subsection~~subsection within 30 days.

29 (b) When an executive order abolishes part or all of an agency and transfers a function of
30 that agency to another agency, a rule concerning the transferred function remains in effect until
31 the agency to which the function is transferred amends or repeals the rule. When an executive
32 order abolishes part or all of an agency and does not transfer a function of that agency to another
33 agency, a rule concerning a function abolished by the executive order is repealed as of the
34 effective date of the executive order. The agency that adopted the rule shall notify the Codifier
35 of Rules that the rule is repealed pursuant to this ~~subsection~~subsection within 30 days.



1 (c) When notified of a rule repealed under this section, the Codifier of Rules must enter
2 the repeal of the rule in the North Carolina Administrative Code. If the Codifier of Rules does
3 not receive timely notice from the agency under this section, the Codifier shall remove the rule
4 from the North Carolina Administrative Code after notifying the agency."

5 **SECTION 3.** G.S. 150B-21.19 reads as rewritten:

6 **"§ 150B-21.19. Requirements for including rule in Code.**

7 To be acceptable for inclusion in the North Carolina Administrative Code, a rule must:

8 ...

9 (4) Have been approved by the Commission, if the rule is a temporary or
10 permanent rule.

11"

12 **SECTION 4.** G.S. 41A-7(b) reads as rewritten:

13 "(b) A complaint under subsection (a) shall be filed within one year after the alleged
14 unlawful discriminatory housing practice occurred. A respondent may file an answer to the
15 complaint against him within 10 days after receiving a copy of the complaint. With the leave of
16 the Commission, which shall be granted whenever it would be reasonable and fair to do so, the
17 complaint and the answer may be amended at any time. ~~Complaints and answers shall be verified.~~
18 The Commission shall make final administrative disposition of a complaint within one year of
19 the date the complaint is filed, unless it is impracticable to do so. If the Commission is unable to
20 do so, it shall notify the complainant and respondent, in writing, of the reasons for not doing so."

21 **SECTION 5.** G.S. 120-30.9H reads as rewritten:

22 **"§ 120-30.9H. Decision letters of U. S. Attorney General published in North Carolina**
23 **Register.**

24 All letters and other documents received by the authorities required by this Article to submit
25 any "changes affecting voting" from the Attorney General of the United States in which a final
26 decision is made concerning a submitted "change affecting voting" shall be filed with the ~~Director~~
27 ~~of the Office of Administrative Hearings. The Director-Codifier of Rules. The Codifier~~ shall
28 publish the letters and other documents in the North Carolina Register."

29 **SECTION 6.** G.S. 163-278.23 reads as rewritten:

30 **"§ 163-278.23. Duties of Executive Director of State Board.**

31 The Executive Director of the State Board shall inspect or cause to be inspected each
32 statement filed with the State Board under this Article within 30 days after the date it is filed.
33 The Executive Director shall advise, or cause to be advised, no more than 30 days and at least
34 five days before each report is due, each candidate or treasurer whose organizational report has
35 been filed, of the specific date each report is due. He shall immediately notify any individual,
36 candidate, treasurer, political committee, referendum committee, media, or other entity that may
37 be required to file a statement under this Article if:

38 (1) It appears that the individual, candidate, treasurer, political committee,
39 referendum committee, media, or other entity has failed to file a statement as
40 required by law or that a statement filed does not conform to this Article; or

41 (2) A written complaint is filed under oath with the State Board by any registered
42 voter of this State alleging that a statement filed with the State Board does not
43 conform to this Article or to the truth or that an individual, candidate,
44 treasurer, political committee, referendum committee, media, or other entity
45 has failed to file a statement required by this Article.

46 The entity that is the subject of the complaint will be given an opportunity to respond to the
47 complaint before any action is taken requiring compliance.

48 The Executive Director of the Board of Elections shall issue written opinions to candidates,
49 the communications media, political committees, referendum committees, or other entities upon
50 request, regarding filing procedures and compliance with this Article. Any such opinion so issued
51 shall specifically refer to this paragraph. If the candidate, communications media, political

1 committees, referendum committees, or other entities rely on and comply with the opinion of the
2 Executive Director of the Board of Elections, then prosecution or civil action on account of the
3 procedure followed pursuant thereto and prosecution for failure to comply with the statute
4 inconsistent with the written ruling of the Executive Director of the Board of Elections issued to
5 the candidate or committee involved shall be barred. Nothing in this paragraph shall be construed
6 to prohibit or delay the regular and timely filing of reports. The Executive Director shall file all
7 opinions issued pursuant to this section with the Codifier of Rules to be published unedited in
8 the North Carolina Register and the ~~North Carolina Administrative Code~~. State Board of Elections
9 website.

10 This section applies to ~~Articles and Article 22M of the General Statutes~~ this Chapter to the
11 same extent that it applies to this Article."

12 **SECTION 7.** Sections 1 through 3 of this act are effective when this act becomes
13 law and apply to emergency rules adopted on or after that date. Section 4 of this act is effective
14 when it becomes law and applies to complaints and answers filed on or after that date. Sections
15 5 and 6 of this act are effective when this act becomes law and apply to filings on or after that
16 date. The remainder of this act is effective when it becomes law.