

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 393

Short Title: Modify Rule-Making Process. (Public)

Sponsors: Representatives Allred, Owens (Primary Sponsors); Earle, Hughes, and Starnes.

Referred to: Environment and Natural Resources, if favorable, Judiciary I, if favorable, State Government/State Personnel.

March 4, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE RULE-MAKING PROCESS TO MAKE ALL RULES
3 APPROVED BY THE RULES REVIEW COMMISSION SUBJECT TO LEGISLATIVE
4 REVIEW.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 150B-21.3 reads as rewritten:

7 "§ 150B-21.3. Effective date of rules.

8 (a) Temporary and Emergency Rules. – A temporary rule or an emergency rule
9 becomes effective on the date the Codifier of Rules enters the rule in the North Carolina
10 Administrative Code.

11 (b) Permanent Rule. – A permanent rule approved by the Commission becomes
12 effective on the ~~first day of the month following the month the rule is approved by the~~
13 ~~Commission, unless the Commission received written objections to the rule in accordance with~~
14 ~~subsection (b2) of this section, or unless the agency that adopted the rule specifies a later~~
15 ~~effective date.~~

16 (b1) Delayed Effective Dates. — ~~If the Commission received written objections to the rule~~
17 ~~in accordance with subsection (b2) of this section, the rule becomes effective on the earlier of~~
18 ~~the thirty-first legislative day or the day of adjournment of the next regular session of the~~
19 ~~General Assembly that begins at least 25 days after the date the Commission approved the rule,~~
20 ~~unless a different effective date applies under this section. If a bill that specifically disapproves~~
21 ~~the rule is introduced in either house of the General Assembly before the thirty-first legislative~~
22 ~~day of that session, the rule becomes effective on the earlier of either the day an unfavorable~~
23 ~~final action is taken on the bill or the day that session of the General Assembly adjourns~~
24 ~~without ratifying a bill that specifically disapproves the rule. If the agency adopting the rule~~
25 ~~specifies a later effective date than the date that would otherwise apply under this subsection,~~
26 ~~the later date applies. A permanent rule that is not approved by the Commission or that is~~
27 ~~specifically disapproved by a bill enacted into law before it becomes effective does not become~~
28 ~~effective.~~

29 A bill specifically disapproves a rule if it contains a provision that refers to the rule by
30 appropriate North Carolina Administrative Code citation and states that the rule is disapproved.
31 Notwithstanding any rule of either house of the General Assembly, any member of the General
32 Assembly may introduce a bill during the first 30 legislative days of any regular session to
33 disapprove a rule that has been approved by the Commission and that either has not become
34 effective or has become effective by executive order under subsection (c) of this section.

35 (b2) Objection. — ~~Any person who objects to the adoption of a permanent rule may~~
36 ~~submit written comments to the agency. If the objection is not resolved prior to adoption of the~~



1 rule, a person may submit written objections to the Commission. If the Commission receives
2 written objections from 10 or more persons, no later than 5:00 P.M. of the day following the
3 day the Commission approves the rule, clearly requesting review by the legislature in
4 accordance with instructions contained in the notice pursuant to G.S. 150B-21.2(c)(9), and the
5 Commission approves the rule, the rule will become effective as provided in subsection (b1) of
6 this section. The Commission shall notify the agency that the rule is subject to legislative
7 disapproval on the day following the day it receives 10 or more written objections. When the
8 requirements of this subsection have been met and a rule is subject to legislative disapproval,
9 the agency may adopt the rule as a temporary rule if the rule would have met the criteria listed
10 in G.S. 150B-21.1(a) at the time the notice of text for the permanent rule was published in the
11 North Carolina Register. If the Commission receives objections from 10 or more persons
12 clearly requesting review by the legislature, and the rule objected to is one of a group of related
13 rules adopted by the agency at the same time, the agency that adopted the rule may cause any
14 of the other rules in the group to become effective as provided in subsection (b1) of this section
15 by submitting a written statement to that effect to the Commission before the other rules
16 become effective.

17 (c) Executive Order Exception. – The Governor may, by executive order, make
18 effective a permanent rule that has been approved by the Commission ~~but the effective date of~~
19 ~~which has been delayed in accordance with subsection (b1) and has not become effective under~~
20 subsection (b) of this section upon finding that it is necessary that the rule become effective in
21 order to protect public health, safety, or welfare. A rule made effective by executive order
22 becomes effective on the date the order is issued or at a later date specified in the order. When
23 the Codifier of Rules enters in the North Carolina Administrative Code a rule made effective by
24 executive order, the entry must reflect this action.

25 A rule that is made effective by executive order remains in effect unless it is specifically
26 disapproved by the General Assembly in a bill enacted into law on or before the day of
27 adjournment of the regular session of the General Assembly that begins at least 25 days after
28 the date the executive order is issued. A rule that is made effective by executive order and that
29 is specifically disapproved by a bill enacted into law is repealed as of the date specified in the
30 bill. If a rule that is made effective by executive order is not specifically disapproved by a bill
31 enacted into law within the time set by this subsection, the Codifier of Rules must note this in
32 the North Carolina Administrative Code.

33 (c1) Fees. – Notwithstanding any other provision of this section, a rule that establishes a
34 new fee or increases an existing fee shall not become effective until the agency has complied
35 with the requirements of G.S. 12-3.1.

36 (d) Legislative Day and Day of Adjournment. – As used in this section:

- 37 (1) A "legislative day" is a day on which either house of the General Assembly
38 convenes in regular session.
- 39 (2) The "day of adjournment" of a regular session held in an odd-numbered year
40 is the day the General Assembly adjourns by joint resolution for more than
41 10 days.
- 42 (3) The "day of adjournment" of a regular session held in an even-numbered
43 year is the day the General Assembly adjourns sine die.

44 (e) OSHA Standard. – A permanent rule concerning an occupational safety and health
45 standard that is adopted by the Occupational Safety and Health Division of the Department of
46 Labor and is identical to a federal regulation promulgated by the Secretary of the United States
47 Department of Labor becomes effective on the date the Division delivers the rule to the
48 Codifier of Rules, unless the Division specifies a later effective date. If the Division specifies a
49 later effective date, the rule becomes effective on that date.

1 (f) Technical Change. – A permanent rule for which no notice or hearing is required
2 under G.S. 150B-21.5(a)(1) through (a)(5) or G.S. 150B-21.5(b) becomes effective on the first
3 day of the month following the month the rule is approved by the Rules Review Commission."
4 **SECTION 2.** This act becomes effective July 1, 2009, and applies to permanent
5 rules adopted on or after that date.