

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 641
HOUSE BILL 856

AN ACT TO CLARIFY THE DEFINITION OF "RULE" FOR PURPOSES OF
ADMINISTRATIVE PROCEDURE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 150A-2 is amended by adding a new subsection (8a) which reads as follows:

"(8a) 'Rule' means each agency regulation, standard or statement of general applicability that implements or prescribes law or policy, or describes the organization, procedure, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule but does not include the following:

(a) Statements concerning only the internal management of an agency and not affecting the private rights or procedures available to the public. The term 'rule', however, includes qualification for employment of any agency.

(b) Declaratory rulings issued pursuant to G.S. 150A- 17;

(c) Intra-agency memoranda, except those to agency staff which implement or prescribe law or policy;

(d) Statements of policy or interpretations that are made in the decision of a contested case;

(e) Policies, if communicated to the public by use of signs or symbols, concerning

(i) the use or creation of public roads and bridges;

(ii) the areas of public facilities and times when public facilities are open to the public; or

(iii) safety in use of public facilities.

(f) Interpretative rules and general statements of policy of the agency; or

(g) Orders establishing or fixing rates or tariffs."

Sec. 2. G.S. 150A-10 is repealed.

Sec. 3. G.S. 150A-14 is amended by adding a new subdivision 3 to read:

"(3) Any plan, material, manual, guide or other document establishing job application or employment practices or procedures of any State agency other than the State Personnel Commission. The State Personnel Commission, however, shall incorporate by reference in its rules job classification standards, including but not limited to those relating to qualifications and salary levels."

Sec. 4. G.S. 150A-58(b) is repealed.

Sec. 5. The catch line of G.S. 150A-59 and the first sentence of subsection (a) of that section are rewritten to read:

"§ 150A-59. Filing of rules and executive orders. – (a) Rules adopted by an agency on or after February 1, 1976, and executive orders of the Governor shall be filed with the Attorney General."

Sec. 6. Subsection (a) of G.S. 150A-63 is rewritten to read:

"(a) The Attorney General shall compile, index and publish executive orders of the Governor and all rules filed and effective pursuant to the provisions of this Article."

Sec. 7. G.S. 120-30.24(5) is amended to read as follows:

"(5) 'Rule' means each agency regulation, standard or statement of general applicability that implements or prescribes law or policy, or describes the organization, procedure, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule but does not include the following:

(a) Statements concerning only the internal management of an agency and not affecting the private rights or procedures available to the public. The term 'rule', however, includes qualification for employment of any agency.

(b) Declaratory rulings issued pursuant to G.S. 150A- 17;

(c) Intra-agency memoranda, except those to agency staff which implement or prescribe law or policy;

(d) Statements of policy or interpretations that are made in the decision of a contested case;

(e) Policies, if communicated to the public by use of signs or symbols, concerning

(i) the use or creation of public roads and bridges;

(ii) the areas of public facilities and times when public facilities are open to the public; or

(iii) safety in use of public facilities.

(f) Interpretative rules and general statements of policy of the agency; or

(g) Orders establishing or fixing rates or tariffs."

Sec. 8. G.S. 143B-10(j)(3), as contained in Chapter 76 of the 1983 Session Laws, First Session 1983, is rewritten to read:

"(3) policies, consistent with law and with rules established by the Governor and with rules of the State Personnel Commission, which reflect internal management procedures within the department. These may include policies governing the conduct of employees of the department, the distribution and performance of business and internal management procedures which do not affect private rights or procedures available to the public and which are listed in (e) of this section. Policies establishing qualifications for employment shall be adopted and filed pursuant to Chapter 150A of the General Statutes; all other policies under this subdivision shall not be adopted or filed pursuant to Chapter 150A of the General Statutes."

Sec. 9. This act shall become effective January 1, 1984, except for Sections 8 and 9 of this act which are effective upon ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1983.