

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 1224

Short Title: Conforming APA Amendments.

(Public)

Sponsors: Senators Foxx; Hartsell, Kerr, Purcell, and Webster.

Referred to: Judiciary I.

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT RECOMMENDATIONS OF THE JOINT LEGISLATIVE  
ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE TO ALLOW  
THE OFFICE OF ADMINISTRATIVE HEARINGS TO USE THE INTERNET  
FOR AGENCY PUBLICATIONS AND TO CONFORM THE ADMINISTRATIVE  
PROCEDURE ACT TO PROVISIONS OF CHAPTER 12 OF THE GENERAL  
STATUTES RELATING TO RULES WHICH ESTABLISH OR INCREASE  
FEES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 150B-21.24 reads as rewritten:

**"§ 150B-21.24. ~~Free copies of~~ Access to Register and Code.**

(a) Register. – The Codifier of Rules must ~~distribute copies of the North Carolina Register as soon after publication as practical, without charge, to the following:~~

(1) ~~A person who receives a free copy of the North Carolina Administrative Code.~~

(2) ~~Upon request, one copy to each member of the General Assembly.~~ make available the North Carolina Register on the Internet at no charge. The Codifier must provide a free copy of the current volume of the Register to any person who receives a free copy of the North Carolina Administrative Code or any member of the General Assembly, only upon request.

(b) Code. – The Codifier of Rules must make available the North Carolina Administrative Code on the Internet at no charge. The Codifier must distribute copies of the North Carolina Administrative Code as soon after publication as practical, without charge, to the following:

(1) One copy to the board of commissioners of each ~~county,~~ county that specifically requests a printed copy, to be placed at the county clerk of court's office or at another place selected by the board of commissioners. The Codifier of Rules is not required to provide a copy

1                    of the Administrative Code to any board of county commissioners  
2                    unless a request is made.

3                    (2) One copy to the Commission.

4                    (3) One copy to the Clerk of the Supreme Court and to the Clerk of the  
5                    Court of Appeals of North Carolina.

6                    (4) One copy to the Supreme Court Library and one copy to the library of  
7                    the Court of Appeals.

8                    (5) One copy to the Administrative Office of the Courts.

9                    (6) One copy to the Governor.

10                   (7) ~~Five copies~~ One copy to the Legislative Services Commission for the  
11                   use of the General Assembly.

12                   (8) ~~Upon request, one copy to each State official or department to whom~~  
13                   ~~or to which copies of the appellate division reports are furnished under~~  
14                   ~~G.S. 7A-343.1.~~

15                   (9) ~~Five copies~~ One copy to the Division of State Library of the  
16                   Department of Cultural Resources pursuant to G.S. 125-11.7."

17                   **SECTION 2.** G.S. 150B-21.1(a) reads as rewritten:

18                   "(a) Adoption. – An agency may adopt a temporary rule without prior notice or  
19                   hearing or upon any abbreviated notice or hearing the agency finds practical when it  
20                   finds that adherence to the notice and hearing requirements of this Part would be  
21                   contrary to the public interest and that the immediate adoption of the rule is required by  
22                   one or more of the following:

23                   (1) A serious and unforeseen threat to the public health, safety, or welfare.

24                   (2) The effective date of a recent act of the General Assembly or the  
25                   United States Congress.

26                   (3) A recent change in federal or State budgetary policy.

27                   (4) A federal regulation.

28                   (5) A court order.

29                   (6) The need for the rule to become effective the same date as the State  
30                   Medical Facilities Plan approved by the Governor, if the rule addresses  
31                   a matter included in the State Medical Facilities Plan.

32                   An agency must prepare a written statement of its findings of need for a temporary  
33                   rule. If the temporary rule establishes a new fee or increases an existing fee, the agency  
34                   shall include in the written statement that it has complied with the requirements of  
35                   G.S. 12-3.1. The statement must be signed by the head of the agency adopting the rule."

36                   **SECTION 3.** G.S. 150B-21.1(b) reads as rewritten:

37                   "(b) Review. – When an agency adopts a temporary rule it must submit the rule  
38                   and the agency's written statement of its findings of the need for the rule to the Codifier  
39                   of Rules. Within one business day after an agency submits a temporary rule, the  
40                   Codifier of Rules must review the agency's written statement of findings of need for the  
41                   rule to determine whether the statement of need meets the criteria listed in subsection  
42                   (a) or (a1) of this section. In reviewing the statement, the Codifier of Rules may  
43                   consider any information submitted by the agency or another person. If the Codifier of

1 Rules finds that the statement meets the criteria, the Codifier of Rules must notify the  
2 head of the agency and enter the rule in the North Carolina Administrative Code.

3 If the Codifier of Rules finds that the statement does not meet the criteria, the  
4 Codifier of Rules must immediately notify the head of the agency. The agency may  
5 supplement its statement of need with additional findings or submit a new statement. If  
6 the agency provides additional findings or submits a new statement, the Codifier of  
7 Rules must review the additional findings or new statement within one business day  
8 after the agency submits the additional findings or new statement. If the Codifier of  
9 Rules again finds that the statement does not meet the criteria listed in subsection (a) or  
10 (a1) of this section, the Codifier of Rules must immediately notify the head of the  
11 agency.

12 If an agency decides not to provide additional findings or submit a new statement  
13 when notified by the Codifier of Rules that the agency's findings of need for a rule do  
14 not meet the required criteria, the agency must notify the Codifier of Rules of its  
15 decision. The Codifier of Rules must then enter the rule in the North Carolina  
16 Administrative Code on the sixth business day after receiving notice of the agency's  
17 decision. Notwithstanding any other provision of this subsection, if the agency has not  
18 complied with the provisions of G.S. 12-3.1, the Codifier of Rules shall not enter the  
19 rule into the Code."

20 **SECTION 4.** G.S. 150B-21.19 reads as rewritten:

21 "**§ 150B-21.19. Requirements for including rule in Code.**

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

- 24 (1) Cite the law under which the rule is adopted.
- 25 (2) Be signed by the head of the agency or the rule-making coordinator for  
26 the agency that adopted the rule.
- 27 (3) Be in the physical form specified by the Codifier of Rules.
- 28 (4) Have been approved by the Commission, if the rule is a permanent  
29 rule.
- 30 (5) Have complied with the provisions of G.S. 12-3.1, if the rule  
31 establishes a new fee or increases an existing fee."

32 **SECTION 5.** G.S. 150B-21.3 is amended by adding a new subsection to  
33 read:

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

37 **SECTION 6.** This act is effective when it becomes law.