

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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HOUSE BILL 402
Committee Substitute Favorable 4/15/25

Short Title: NC REINS Act.

(Public)

Sponsors:

Referred to:

March 17, 2025

A BILL TO BE ENTITLED

AN ACT TO ENACT THE REGULATIONS FROM THE EXECUTIVE IN NEED OF
SCRUTINY ACT AND TO CLARIFY THE JUDICIAL DEFERENCE AFFORDED TO
AGENCY INTERPRETATIONS OF RULES.

The General Assembly of North Carolina enacts:

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

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

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

(b) Permanent Rule. – A permanent rule approved by the Commission becomes effective on the first day of the month following the month the rule is approved by the Commission, unless (i) the Commission received written objections to the rule in accordance with subsection (b2) of this section, section, (ii) the rule would have a substantial economic impact as calculated under G.S. 150B-21.4(b1)(4a), or unless (iii) the agency that adopted the rule specifies a later effective date.

(b1) Delayed Effective Dates. – Except as provided in G.S. 14-4.1, if the Commission received written objections to the rule in accordance with subsection (b2) of this section, or if the rule would have a substantial economic impact as calculated under G.S. 150B-21.4(b1)(4a), the rule becomes effective on the earlier of the thirty-first legislative day or the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the Commission approved the rule, unless a different effective date applies under this section. If a bill that specifically disapproves the rule is introduced in either house of the General Assembly before the thirty-first legislative day of that session, the rule becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the General Assembly adjourns without ratifying a bill that specifically disapproves the rule. If the agency adopting the rule specifies a later effective date than the date that would otherwise apply under this subsection, the later date applies. A permanent rule that is not approved by the Commission or that is specifically disapproved by a bill enacted into law before it becomes effective does not become effective.

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



1"

2 **SECTION 2.** G.S. 150B-21.4(b1) reads as rewritten:

3 "(b1) Substantial Economic Impact. – Before an agency publishes in the North Carolina
4 Register the proposed text of a permanent rule change that would have a substantial economic
5 impact and that is not identical to a federal regulation that the agency is required to adopt, the
6 agency shall prepare a fiscal note for the proposed rule change and have the note approved by
7 the Office of State Budget and Management. The agency must also obtain from the Office a
8 certification that the agency adhered to the regulatory principles set forth in
9 G.S. 150B-19.1(a)(2), (5), and (6). The agency may request the Office of State Budget and
10 Management to prepare the fiscal note only after, working with the Office, it has exhausted all
11 resources, internal and external, to otherwise prepare the required fiscal note. If an agency
12 requests the Office of State Budget and Management to prepare a fiscal note for a proposed rule
13 change, that Office must prepare the note within 90 days after receiving a written request for the
14 note. If the Office of State Budget and Management fails to prepare a fiscal note within this time
15 period, the agency proposing the rule change shall prepare a fiscal note. A fiscal note prepared
16 in this circumstance does not require approval of the Office of State Budget and Management.

17 If an agency prepares the required fiscal note, the agency must submit the note to the Office
18 of State Budget and Management for review. The Office of State Budget and Management shall
19 review the fiscal note within 14 days after it is submitted and either approve the note or inform
20 the agency in writing of the reasons why it does not approve the fiscal note. After addressing
21 these reasons, the agency may submit the revised fiscal note to that Office for its review. If an
22 agency is not sure whether a proposed rule change would have a substantial economic impact,
23 the agency shall ask the Office of State Budget and Management to determine whether the
24 proposed rule change has a substantial economic impact. Failure to prepare or obtain approval of
25 the fiscal note as required by this subsection shall be a basis for objection to the rule under
26 G.S. 150B-21.9(a)(4).

27 As used in this subsection, the term "substantial economic impact" means an aggregate
28 financial impact on all persons affected of at least one million dollars (\$1,000,000) in a 12-month
29 ~~period.~~ period, as calculated under subdivision (4a) of this subsection. In analyzing substantial
30 economic impact, an agency shall do the following:

- 31 (1) Determine and identify the appropriate time frame of the analysis.
- 32 (2) Assess the baseline conditions against which the proposed rule is to be
33 measured.
- 34 (3) Describe the persons who would be subject to the proposed rule and the type
35 of expenditures these persons would be required to make.
- 36 (3a) Estimate the cost of the baseline, if the proposed rule amends or readopts an
37 existing rule. The analysis should include direct costs as well as opportunity
38 costs. Cost estimates must be monetized to the greatest extent possible. Where
39 costs are not monetized, they must be listed and described.
- 40 (4) Estimate any additional costs that would be created by implementation of the
41 proposed rule by measuring the incremental difference between the baseline
42 and the future condition expected after implementation of the rule. The
43 analysis should include direct costs as well as opportunity costs. Cost
44 estimates must be monetized to the greatest extent possible. Where costs are
45 not monetized, they must be listed and described.
- 46 (4a) Estimate the combined cost of the baseline conditions and the proposed rule
47 as calculated in subdivisions (3a) and (4) of this subsection.
- 48 (5) For costs that occur in the future, the agency shall determine the net present
49 value of the costs by using a discount factor of seven percent (7%)."

50 **SECTION 3.** G.S. 150B-34 reads as rewritten:

51 "**§ 150B-34. Final decision or order.**

1 (a) In each contested case the administrative law judge shall make a final decision or
2 order that contains findings of fact and conclusions of law. The administrative law judge shall
3 decide the case based upon the preponderance of the ~~evidence, giving due regard to evidence.~~
4 The administrative law judge shall be informed by the demonstrated knowledge and expertise of
5 the agency with respect to facts and inferences within the specialized knowledge of the
6 agency-~~agency~~ but shall exercise independent judgment in making a final decision or order.

7 (b) Repealed by Session Laws 1991, c. 35, s. 6.

8 (c) Repealed by Session Laws 2011-398, s. 18. For effective date and applicability, see
9 editor's note.

10 (d) Except for the exemptions contained in G.S. 150B-1, the provisions of this section
11 regarding the decision of the administrative law judge shall apply only to agencies subject to
12 Article 3 of this Chapter, notwithstanding any other provisions to the contrary relating to
13 recommended decisions by administrative law judges.

14 (e) An administrative law judge may grant judgment on the pleadings, pursuant to a
15 motion made in accordance with G.S. 1A-1, Rule 12(c), or summary judgment, pursuant to a
16 motion made in accordance with G.S. 1A-1, Rule 56, that disposes of all issues in the contested
17 case. Notwithstanding subsection (a) of this section, a decision granting a motion for judgment
18 on the pleadings or summary judgment need not include findings of fact or conclusions of law,
19 except as determined by the administrative law judge to be required or allowed by G.S. 1A-1,
20 Rule 12(c), or Rule 56."

21 **SECTION 4.** G.S. 150B-51 reads as rewritten:

22 "**§ 150B-51. Scope and standard of review.**

23 (a), (a1) Repealed by Sessions Laws, 2011-398, s. 27. For effective date and applicability,
24 see editor's note.

25 (b) The court reviewing a final decision may affirm the decision or remand the case for
26 further proceedings. It may also reverse or modify the decision if the substantial rights of the
27 petitioners may have been prejudiced because the findings, inferences, conclusions, or decisions
28 are:

- 29 (1) In violation of constitutional provisions;
- 30 (2) In excess of the statutory authority or jurisdiction of the agency or
31 administrative law judge;
- 32 (3) Made upon unlawful procedure;
- 33 (4) Affected by other error of law;
- 34 (5) Unsupported by substantial evidence admissible under G.S. 150B-29(a),
35 150B-30, or 150B-31 in view of the entire record as submitted; or
- 36 (6) Arbitrary, capricious, or an abuse of discretion.

37 (c) In reviewing a final decision in a contested case, the court shall determine whether
38 the petitioner is entitled to the relief sought in the petition based upon its review of the final
39 decision and the official record. With regard to asserted errors pursuant to subdivisions (1)
40 through (4) of subsection (b) of this section, the court shall conduct its review of the final decision
41 using the de novo standard of review. With regard to asserted errors pursuant to subdivisions (5)
42 and (6) of subsection (b) of this section, the court shall conduct its review of the final decision
43 using the whole record standard of review. In conducting its review of the final decision, the
44 court shall be informed by the demonstrated knowledge and expertise of the agency with respect
45 to facts and inferences within the specialized knowledge of the agency but shall exercise
46 independent judgment in making its order.

47 (d) In reviewing a final decision allowing judgment on the pleadings or summary
48 judgment, the court may enter any order allowed by G.S. 1A-1, Rule 12(c) or Rule 56. If the
49 order of the court does not fully adjudicate the case, the court shall remand the case to the
50 administrative law judge for such further proceedings as are just."

1 **SECTION 5.** This act is effective when it becomes law. Sections 1 and 2 of this act
2 apply to rules adopted on or after that date. Sections 3 and 4 of this act apply to actions pending
3 or filed on or after that date.