



SENATE BILL 36: APA Technical/Clarifying Chges

2013-2014 General Assembly

Committee: Senate Judiciary I
Introduced by: Sen. Hartsell
Analysis of: First Edition

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SUMMARY: *Senate Bill 36 makes several technical, clarifying, and conforming changes to the Administrative Procedure Act as recommended by the Joint Legislative Administrative Procedure Oversight Committee.*

BILL ANALYSIS: Senate Bill 36 makes the following changes to the Administrative Procedure Act:

Section 1 amends the Notice of Text provision by separating two distinct items of information that must be contained in the notice. This section also deletes an unnecessary requirement that the agency include the procedure for seeking legislative review of a rule. This procedure is already included in the Register by the Office of Administrative Hearings (OAH).

Section 2 clarifies language concerning rules that are repealed as a result of the repeal of an agency's authority to adopt the rule. This provision deletes a requirement that the Director of the Fiscal Research Division of the North Carolina General Assembly notify the Codifier of Rules when a rule is repealed under this section and instead requires the agency that adopted the rule to notify the Codifier of Rules.

Section 3 allows the Codifier of Rules to make certain formatting changes to certain rules more than 10 days after the rule has been submitted.

Section 4 amends the provision relating to appropriate venue for seeking judicial review of a final decision in a contested case. Currently, a petition for judicial review can be filed in Wake County or in the county where the person resides. This language was not changed when OAH was given final decision-making authority. Prior to that change, an agency could not seek judicial review of its own final decision. This amendment clarifies that the "person" in the current law refers to the party that commenced the original contested case.

EFFECTIVE DATE: This act is effective when it becomes law.

**Chris Saunders, Staff Attorney, contributed substantially to this summary.*

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