

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

2

HOUSE BILL 550
Committee Substitute Favorable 5/31/05

Short Title: SBE/Comm. College/Rulemaking.

(Public)

Sponsors:

Referred to:

March 10, 2005

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE STATE BOARD OF EDUCATION AND THE
STATE BOARD OF COMMUNITY COLLEGES TO IMPLEMENT AN
EXPEDITED PROCEDURE FOR THE ADOPTION OF PERMANENT RULES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2A of Chapter 150B of the General Statutes is amended by adding the following new section to read:

"§ 150B-21.2A. Expedited process for certain agencies adopting a permanent rule.

(a) As used in this section, "Board" refers to the State Board of Education and the State Board of Community Colleges, as applicable.

(b) The State Board of Education and the State Board of Community Colleges may each establish an expedited process for the adoption of permanent rules. The process shall provide for the following:

(1) G.S. 150B-21.1 applies to the adoption of permanent rules by the Board except that:

a. Notwithstanding G.S. 150B-21.2(f), the Board must accept comments on the text that is published in the Register for at least 30 days after the text is published or until the date of any public hearing held on the proposed rule, whichever is longer.

b. Notwithstanding G.S. 150B-21.2(g), permanent rules adopted by the Board in accordance with this section are not subject to review or approval by the Rules Review Commission.

(2) G.S. 150B-21.3(b) does not apply to permanent rules adopted by the Board in accordance with this section. A permanent rule adopted by the Board in accordance with this section and other applicable provisions of this Article becomes effective on the first day of the month following the month the rule is adopted by the Board.

(c) Except as otherwise provided in this section, this Article applies to permanent rules adopted by the Board. The Board may adopt an emergency or temporary rule in

1 accordance with this Article. Temporary or emergency rules adopted by the Board shall
2 become effective as provided in G.S. 150B-21.3(a)."

3 **SECTION 2.** G.S. 150B-21.8 reads as rewritten:

4 **"§ 150B-21.8. Review of rule by Commission.**

5 (a) Emergency Rule. – The Commission does not review an emergency rule.

6 (b) Temporary and Permanent ~~Rules. Rules; Exception.~~ – An agency must submit
7 temporary and permanent rules adopted by it to the Commission before the rule can be
8 included in the North Carolina Administrative Code. The Commission reviews a
9 temporary or permanent rule in accordance with the standards in G.S. 150B-21.9 and
10 follows the procedure in this Part in its review of a rule. This section does not apply to
11 permanent rules adopted by the State Board of Education or the State Board of
12 Community Colleges in accordance with G.S. 150B-21.2A.

13 (c) Scope. – When the Commission reviews an amendment to a permanent rule,
14 it may review the entire rule that is being amended. The procedure in G.S. 150B-21.12
15 applies when the Commission objects to a part of a permanent rule that is within its
16 scope of review but is not changed by a rule amendment.

17 (d) Judicial Review. – When the Commission returns a permanent rule to an
18 agency in accordance with G.S. 150B-21.12(d), the agency may file an action for
19 declaratory judgment in Wake County Superior Court pursuant to Article 26 of Chapter
20 1 of the General Statutes."

21 **SECTION 3.** G.S. 150B-21.17(a) reads as rewritten:

22 **"§ 150B-21.17. North Carolina Register.**

23 (a) Content. – The Codifier of Rules must publish the North Carolina Register.
24 The North Carolina Register must be published at least two times a month and must
25 contain the following:

26 (1) Temporary rules entered in the North Carolina Administrative Code.

27 (1a) The text of proposed rules and the text of permanent rules approved by
28 the Commission.

29 (1b) Emergency rules entered into the North Carolina Administrative Code.

30 (1c) The text of proposed rules and the text of permanent rules adopted by
31 the State Board of Education and the State Board of Community
32 Colleges in accordance with G.S. 150B-21.2A.

33 (2) Notices of receipt of a petition for municipal incorporation, as required
34 by G.S. 120-165.

35 (3) Executive orders of the Governor.

36 (4) Final decision letters from the United States Attorney General
37 concerning changes in laws that affect voting in a jurisdiction subject
38 to section 5 of the Voting Rights Act of 1965, as required by
39 G.S. 120-30.9H.

40 (5) Orders of the Tax Review Board issued under G.S. 105-241.2.

41 (6) Other information the Codifier determines to be helpful to the public."

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

43 **"§ 150B-21.19. Requirements for including rule in Code.**

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

- 3 (1) Cite the law under which the rule is adopted.
- 4 (2) Be signed by the head of the agency or the rule-making coordinator for
5 the agency that adopted the rule.
- 6 (3) Be in the physical form specified by the Codifier of Rules.
- 7 (4) Have been approved by the Commission, if the rule is a permanent
8 ~~rule~~rule subject to the Commission's approval.
- 9 (4a) Have been adopted by the State Board of Education or the State Board
10 of Community Colleges in accordance with G.S. 150B-21.2A.
- 11 (5) Have complied with the provisions of G.S. 12-3.1, if the rule
12 establishes a new fee or increases an existing fee."

13 **SECTION 5.** This act becomes effective October 1, 2005, and applies to
14 rules proposed and adopted on and after that date.