

April 10, 2003

**H 1151. IMPROVE RULE-MAKING PROCESS.** *TO AMEND THE ADMINISTRATIVE PROCEDURE ACT TO REVISE THE PROCEDURE FOR ADOPTING PERMANENT AND TEMPORARY RULES, TO CREATE A PROCEDURE FOR THE ADOPTION OF EMERGENCY RULES, AND TO CLARIFY THE ROLE OF THE RULES REVIEW COMM'N.* Substantially identical to S 956, introduced 4/3/03, with the following differences. Requires an agency that adopts an emergency rule to simultaneously commence the process for adopting a temporary rule. Provides that emergency rule expires 60 days after publication unless the temporary rule adopted to replace the emergency rule has been submitted to the Rules Review Comm'n. Requires notice of proposed text of a rule to include the procedure by which a person can object to a proposed rule. Reduces from 30 to 15 the number of days in which a person may ask an agency for a written statement explaining why the agency adopted a rule, and requires the agency to issue its explanation in 15 days after receipt of the request.

**Intro. by Nesbitt, C. Wilson, Culpepper.**

Ref. to Judiciary II	GS 150B
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April 28, 2003

**H 1151. IMPROVE RULE-MAKING PROCESS.** Intro. 4/10/03. House committee substitute makes the following changes to 1st edition. Reinstates GS 150B-21.1(a)(1). Amends GS 150B-21.1(a) to provide that a recent act, change, or regulation is one that was made effective no more than 210 (was, 180) days prior to submission of temporary rule. Amends GS 150B-21.1(b) to provide that when the Rule Review Comm'n returns a rule to the agency after finding that it does not meet the required standards, the agency may file an action for declaratory relief in Wake County Superior Court. Amends GS 150B-21.3(b2) providing that Comm'n must receive objections from at least ten (was, three) people requesting legislative review in order to delay effective date of rule subject to legislative consideration in accordance with subsection (b1). Amends GS 150B-21.9(a)(3) to provide that rule may also implement federal law or regulation and delete requirement that in adopting rule agency consider specificity of statute. Further deletes reference to legislative intent. Amends GS 150B-21.9(a) to provide that entry of rule in NC Administrative Code creates a rebuttable presumption that the rule was adopted in accordance with Part 2 of Art. Adds new GS 150B-2(8a)k. excluding State Medical Facilities Plan from definition of "rule." Amends GS 131E-176(25) requiring that in preparing State Medical Facilities Plan, Dep't of Health and Human Services hold at least one public hearing prior to the adoption of Plan and six after adoption, and notify interested persons not less than 15 days prior to scheduled hearing. Effective as to permanent rules adopted on or after Oct. 1, 2003. Makes technical changes.

May 27, 2003

**H 1151. IMPROVE RULE-MAKING PROCESS.** Intro. 4/10/03. Senate committee substitute makes the following changes to 2nd edition. Amends GS 150B-21.1(a1) to require that agency hold public hearing no less than five days after temporary rule and hearing notice has been published. Amends GS 150B-21.1(b) to require that Rules Review Comm'n direct a member of its staff to make a recommendation to the Comm'n or its designee upon review of the rule and the statement of findings of need. Further amends that subsection to require that Comm'n designee be a panel of at least three members of the Comm'n. Amends GS 150B-21.1A(a) to authorize the Dep't of Health and Human Services to adopt emergency rules when a recent act of the General Assembly or the US Congress or a recent change in federal regulations authorizes new or increased services or benefits for children and families, and when the emergency rule is necessary to implement that change. Amends GS 150B-21.8(c) to clarify that Comm'n may review entire rule upon review of an amendment to a permanent rule. Amends GS 150B-21.12(c) to require that if agency makes a substantial change to a rule in response to an objection by the Comm'n, the revised rule shall be published and reviewed in accordance with GS 150B-21.1(a1) and (b) procedures. Provides that amendments to GS 150B-21.9(a1) (standards and timetables for Comm'n review of rule) applies only to rules adopted on or after act's effective date. Makes technical changes.

