

DATE: 2/22/78

Updated: 6/1/78

COMMITTEE ACTION: 1. Favorable-5/2/78

ANALYST STAFF DIRECTOR

18/512

1. Hurley Overstreet

SENATE

2. _____

STAFF ANALYSIS AND ECONOMIC STATEMENT

3. _____

GOVERNMENTAL OPERATIONS COMMITTEE

AMEND. OR CS ATTACHED _____

BILL NO. AND SPONSOR:

HB 1075 by Committee on
Governmental Operations, and others

SUBJECT: Administrative
Procedures

REFERENCES: GOVERNMENTAL OPERATIONS

I. SUMMARY:

Removes from the Florida Statutes provisions and language made obsolete by the enactment of the Administrative Procedure Act. Provides limited exceptions to application of the APA. Clarifies questions of construction of certain provisions of existing statutes.

II. PURPOSE:

A. Present Situation

The Florida Statutes contain many provisions made obsolete by the enactment of the Administrative Procedure Act in 1974. The APA Subcommittee of the House Committee on Governmental Operations has prepared a bill to remove from the statutes those obsolete provisions. The subcommittee held a series of hearings soliciting comments on the proposed bill from affected agencies. Although many agencies sought substantive changes in the APA and in other statutes imposing procedural constraints, most were satisfied with the final draft of this legislation. Staffs of the standing committees in the Senate were presented with those sections of this bill which pertain to their specific agency assignments, and were requested to review these and note any problem areas. No specific substantive problems were noted, however, several comments indicated concern that certain chapters would no longer advise readers of their right to a hearing.

B. Effect on Present Situation

This bill would affect existing statutes in three ways. First, certain obsolete procedures and language would be entirely deleted. Second, questions of construction of particular provisions would be clarified. Third, certain procedures which conflict with the APA would be retained as express exceptions to that act. If an agency wanted to retain existing procedural requirements more stringent than those in the APA, such requirements were made exceptions to the APA. A summary of those sections of the bill which provide limited exceptions to the APA, clarify questions of construction, or are otherwise of particular interest appears on the back of this page.

III. ECONOMIC CONSIDERATIONS:

A. Economic Impact on the Public: YES _____ NO X

B. Economic Impact on State or Local Government: YES X NO _____

Some agencies not currently in strict compliance with the APA may incur additional expenses in implementing changes in agency procedure. However, some agencies now complying with requirements more strict than those in the APA may realize cost savings. The overall impact is unquantifiable.

IV. COMMENTS:

This bill has become law with the approval of the Governor.

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Following is a summary of those sections of the bill that provide limited exceptions to the APA, clarify questions of construction, or are otherwise of particular interest:

<u>Bill Section</u>	<u>Statute</u>	
4	380.10(2)	ADMINISTRATION COMMISSION -- Emergency orders in developments of regional impact shall be in force no later than the next regular legislative session (as opposed to 90 days in Chapter 120).
6	120.57(1)(a)(S)	AGRICULTURE -- Authorizes Department to conduct its own hearings under Citrus Code, Chapter 601, Florida Statutes.
8	231.36(6)	LOCAL SCHOOL DISTRICTS -- Clarifies that school boards may suspend without pay teachers or staff for immorality, misconduct in office, incompetency, etc.
8	239.582(1)	UNIVERSITIES AND COMMUNITY COLLEGES -- Provides that suspensions of students for possession/sale of controlled substances shall be by the president of a university and board of trustees of a community college.
10	601.111(2)	CITRUS -- Limits Citrus rules lowering solids and juice content standards during emergencies to a duration not to exceed one year.
10	601.152	CITRUS -- Clarifies that special marketing campaigns are marketing orders and hence exempt from Chapter 120.
11	443.07(4)(e)	COMMERCE -- Limits judicial review venue for disputes concerning unemployment compensation claims to appellate district in which the appeals referee decided the issues.
11	443.15(2)(a)3.	COMMERCE -- Provides an exception for special deputies to conduct proceedings involving disputed unemployment compensation collections (taxes).
19	394.457(6)	HEALTH & REHABILITATIVE SERVICES -- Provides that orders of hearing officers authorizing continued involuntary hospitalization (Baker Act) shall be final agency action, subject to judicial review.
20	322.27(1)	HIGHWAY SAFETY & MOTOR VEHICLES -- Clarifies that the Department may suspend driver's licenses without preliminary hearing for certain offenses.
20	322.31	HIGHWAY SAFETY & MOTOR VEHICLES -- Places judicial review of suspension or revocation of driver's licenses in circuit court where person resides, not district court of appeal as in Chapter 120.
38	464.21(4)	BOARD OF NURSING -- Removes the requirement that charges against a licensee or applicant be in writing and sworn.
53	367.051(2)	PUBLIC SERVICE COMMISSION -- Clarifies that any consumer, utility or governmental agency in affected territory may trigger a hearing on certification of a water and sewer utility.
57	120.60(2)	ALL AGENCIES -- Requires agencies to grant or deny licenses in period <u>shorter than the 90 days</u> allowed in APA if otherwise provided by law. At least 10 licenses must statutorily be granted or denied in less than 90 days.
57	120.72	ADMINISTRATIVE PROCEDURE -- Amends legislative intent of Chapter 120 to state that the APA supersedes other procedural language to the extent of any conflict, rather than "replacing" other language.
	Various Sections	EXTRA NOTICE REQUIREMENTS -- In over 20 sections of the statute's notice requirements for rulemaking or hearings that are not in Chapter 120 have been retained and added to Chapter 120 requirements.

<u>INDUSTRY</u>	<u>LICENSING STATUTE</u>	<u>RECEIPTS</u>
1. Beauty Shops	Ch. 477	\$ 128,736,000
2. Barber Shops	476	32,479,000
3. Hotels & Motels	509	988,452,000
4. Outdoor Advertisers	479	19,616,000
5. Funeral Services	470	84,266,000
6. Pest Control	482	58,236,000
7. Employment Agencies	449	16,625,000
8. Detective & Guard Services	493	35,464,000
9. Electronic Repair	468, Pt. V.	99,532,000
10. Watchmakers & Repairs	489	4,992,000
11. Horsetracks	550	32,838,000
12. Dogtracks	550	65,167,000
13. Architectural Services	467	100,274,000
14. Engineering Services	471	147,221,000
15. Land Surveying Services	472	37,030,000
16. Motor Vehicle Dealers	320	5,643,551,766
17. Banking	658, 659 660 & 661	11,000,489,000
18. Electric Utilities	366	1,646,393,696
19. Telephone & Telegraph	364	1,391,825,984

* * *

BILL ACTION REPORT

(C3-75: File with Secretary of Senate)

~~(S)~~ (H) BILL NO. 1075

COMMITTEE ON GOVERNMENTAL OPERATIONS

DATE May 2, 1978

Date Reported 5/2/78

TIME 2:00 p.m. - 5:00 p.m.

FINAL ACTION:

PLACE Room H

Favorably with amendments

OTHER COMMITTEE REFERENCES:
(In order shown)

Favorably with Committee Substitute

Unfavorably

None

OTHER: Temporarily Passed

Reconsidered

THE VOTE WAS:

Not Considered

FINAL BILL VOTE		SENATORS										
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay
X		CASTOR, BETTY										
		DUNN, EDGAR M, JR.										
X		FIRESTONE, GEORGE										
		GALLEN, TOM										
X		GORMAN, BILL										
X		HENDERSON, WARREN S.										
		SCARBOROUGH, DAN I.										
X		TOBIASSEN, THOMAS J.										
		WILSON, LORI										
X		WINN, SHERMAN S.										
X		ZINKIL, WILLIAM G. SR ^{VC}										
		BARRON, DEMPSEY, J. CH.										
7	0	TOTAL										
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay

(Attach additional page if necessary)

Please Complete: The key sponsor appeared (X) Representative Sheldon
 A Senator appeared ()
 Sponsor's aide appeared ()
 Other appearance ()

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MEMORANDUM OF EXPLANATION OF HB 1075.

In 1974, the Legislature passed the new Administrative Procedure Act with the following intent:

...that the provisions of this act shall replace all other provisions in the Florida Statutes, 1973, relating to rulemaking, agency order, administrative adjudication, or judicial review of administrative action, except for marketing orders...

The Division of Statutory Revision, pursuant to a legislative directive, compiled a Reviser's Bill that struck all provisions in the Florida Statutes that were replaced by the above language. For the past three years the bill has died, basically because of political opposition from agencies who felt, in some cases with clear justification, that the simple deletion of procedural detail mandated by the 1974 APA created problems of construction or substance.

The APA Subcommittee of Governmental Operations prepared this committee bill to accomplish the goal of the reviser's bill (ridding the statutes of obsolete language) but with express exceptions to Chapter 120, or clarifications of its applicability, where needed. The following is a summary of those sections of the bill that provide limited exceptions to Chapter 120, clarify questions of construction, or are otherwise of particular interest.

<u>Bill Section</u>	<u>Statute</u>	
4	380.10(2)	ADMINISTRATION COMMISSION -- Emergency orders in developments of regional impact shall be in force no later than the next regular legislative session (as opposed to 90 days in Chapter 120).
6	120.57(1)(a)(8)	AGRICULTURE -- Authorizes Department to conduct its own hearings under Citrus Code, Chapter 601, Florida Statutes.
8	231.36(6)	LOCAL SCHOOL DISTRICTS -- Clarifies that school boards may suspend without pay teachers or staff for immorality, misconduct in office, incompetency, etc.

Bill Section

Statute

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Page 3
Bill Section

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|----|------------------|---|
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| 53 | 367.051(2) | PUBLIC SERVICE COMMISSION -- Clarifies that any consumer, utility or governmental agency in affected territory may trigger a hearing on certification of a water and sewer utility. |
| 57 | 120.60(2) | ALL AGENCIES -- Requires agencies to grant or deny licenses in period <u>shorter than the 90 days allowed in APA if otherwise provided by law.</u> At least 10 licenses must statutorily be granted or denied in less than 90 days. |
| 57 | 120.72 | ADMINISTRATIVE PROCEDURE -- Amends legislative intent of Chapter 120 to state that the APA supersedes other procedural language to the extent of any conflict, rather than "replacing" other language. |
| | Various Sections | EXTRA NOTICE REQUIREMENTS -- In over 20 sections of the statutes notice requirements for rulemaking or hearings that are not in Chapter 120 have been retained and added to Chapter 120 requirements. |

