

By the Committee on Governmental Rules & Regulations and
Representatives Spratt and Wallace

1 A bill to be entitled
2 An act relating to administrative procedures;
3 amending s. 120.54, F.S.; requiring the
4 Administration Commission to adopt uniform
5 rules of procedure for certain administrative
6 hearings; providing requirements; amending s.
7 120.569, F.S.; providing requirements for
8 petitions or requests for administrative
9 hearings; providing procedural requirements for
10 agencies; providing for dismissal; requiring
11 notice; authorizing agencies to refer petitions
12 to the Division of Administrative Hearings
13 under certain circumstances; amending s.
14 120.57, F.S.; providing for motions for a
15 summary final order in administrative hearings
16 under certain circumstances; providing
17 requirements for such orders; providing
18 requirements for relinquishing jurisdiction of
19 certain proceedings to an agency; providing
20 procedures; providing an effective date.

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22 Be It Enacted by the Legislature of the State of Florida:

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24 Section 1. Paragraph (b) of subsection (5) of section
25 120.54, Florida Statutes, is amended to read:

26 120.54 Rulemaking.--

27 (5) UNIFORM RULES.--

28 (b) The uniform rules of procedure adopted by the
29 commission pursuant to this subsection shall include, but not
30 be limited to:

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1 1. Uniform rules for the scheduling of public
2 meetings, hearings, and workshops.

3 2. Uniform rules for use by each state agency that
4 provide procedures for conducting public meetings, hearings,
5 and workshops, and for taking evidence, testimony, and
6 argument at such public meetings, hearings, and workshops, in
7 person and by means of communications media technology. The
8 rules shall provide that all evidence, testimony, and argument
9 presented shall be afforded equal consideration, regardless of
10 the method of communication. If a public meeting, hearing, or
11 workshop is to be conducted by means of communications media
12 technology, or if attendance may be provided by such means,
13 the notice shall so state. The notice for public meetings,
14 hearings, and workshops utilizing communications media
15 technology shall state how persons interested in attending may
16 do so and shall name locations, if any, where communications
17 media technology facilities will be available. Nothing in this
18 paragraph shall be construed to diminish the right to inspect
19 public records under chapter 119. Limiting points of access to
20 public meetings, hearings, and workshops subject to the
21 provisions of s. 286.011 to places not normally open to the
22 public shall be presumed to violate the right of access of the
23 public, and any official action taken under such circumstances
24 is void and of no effect. Other laws relating to public
25 meetings, hearings, and workshops, including penal and
26 remedial provisions, shall apply to public meetings, hearings,
27 and workshops conducted by means of communications media
28 technology, and shall be liberally construed in their
29 application to such public meetings, hearings, and workshops.
30 As used in this subparagraph, "communications media
31 technology" means the electronic transmission of printed

1 matter, audio, full-motion video, freeze-frame video,
2 compressed video, and digital video by any method available.
3 3. Uniform rules of procedure for the filing of notice
4 of protests and formal written protests.
5 4. Uniform rules of procedure for the filing of
6 petitions for administrative hearings pursuant to s. 120.569
7 or s. 120.57. Such rules shall include:
8 a. The identification of the petitioner.
9 b. A statement of when and how the petitioner received
10 notice of the agency's action or proposed action.
11 c. An explanation of how the petitioner's substantial
12 interests are or will be affected by the action or proposed
13 action.
14 d. A statement of all material facts disputed by the
15 petitioner or a statement that there are no disputed facts.
16 e. A statement of the ultimate facts alleged,
17 including a statement of the specific facts the petitioner
18 contends warrant reversal or modification of the agency's
19 proposed action.
20 f. A statement of the specific rules or statutes the
21 petitioner contends require reversal or modification of the
22 agency's proposed action.
23 g. A statement of the relief sought by the petitioner,
24 stating precisely the action petitioner wishes the agency to
25 take with respect to the proposed action.
26 ~~5.4.~~ Uniform rules of procedure for the filing and
27 prompt disposition of petitions for declaratory statements.
28 ~~6.5.~~ Provision of a method by which each agency head
29 shall provide a description of the agency's organization and
30 general course of its operations.
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1 ~~7.6.~~ Uniform rules establishing procedures for
2 granting or denying petitions for variances and waivers
3 pursuant to s. 120.542.

4 Section 2. Paragraphs (c) through (l) of subsection
5 (2) of section 120.569, Florida Statutes, are renumbered as
6 paragraphs (e) through (n), respectively, and new paragraphs
7 (c) and (d) are added to said section, to read:

8 120.569 Decisions which affect substantial
9 interests.--

10 (2)

11 (c) Unless otherwise provided by law, a petition or
12 request for hearing shall include those items required by the
13 uniform rules adopted pursuant to s. 120.54(5)(b)4. Upon the
14 receipt of a petition or request for hearing, the agency shall
15 carefully review the petition to determine if it contains all
16 of the required information. A petition shall be dismissed if
17 it is not in substantial compliance with these requirements or
18 it has been untimely filed. Dismissal of a petition shall, at
19 least once, be without prejudice to petitioner's filing a
20 timely amended petition curing the defect, unless it
21 conclusively appears from the face of the petition that the
22 defect cannot be cured. The agency shall promptly give
23 written notice to all parties of the action taken on the
24 petition, shall state with particularity its reasons if the
25 petition is not granted, and shall state the deadline for
26 filing an amended petition if applicable.

27 (d) The agency may refer a petition to the division
28 for the assignment of an administrative law judge only if the
29 petition is in substantial compliance with the requirements of
30 paragraph (c).

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1 Section 3. Paragraphs (h), (i), (j), (k), and (l) of
2 subsection (1) of section 120.57, Florida Statutes, are
3 renumbered as paragraphs (j), (k), (l), (m), and (n),
4 respectively, and new paragraphs (h) and (i) are added to said
5 subsection, to read:

6 120.57 Additional procedures for particular cases.--

7 (1) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS
8 INVOLVING DISPUTED ISSUES OF MATERIAL FACT.--

9 (h) Any party to a proceeding in which an
10 administrative law judge of the Division of Administrative
11 Hearings has final order authority may move for a summary
12 final order when there is no genuine issue as to any material
13 fact. A summary final order shall be rendered if the
14 administrative law judge determines from the pleadings,
15 depositions, answers to interrogatories, and admissions on
16 file, together with affidavits, if any, that no genuine issue
17 as to any material fact exists and that the moving party is
18 entitled as a matter of law to the entry of a final order. A
19 summary final order shall consist of findings of fact, if any,
20 conclusions of law, a disposition or penalty, if applicable,
21 and any other information required by law to be contained in
22 the final order.

23 (i) When, in any proceeding conducted pursuant to this
24 subsection, a dispute of material fact no longer exists, any
25 party may move the administrative law judge to relinquish
26 jurisdiction to the agency. In ruling on such a motion, the
27 administrative law judge may consider the pleadings,
28 depositions, answers to interrogatories, and admissions on
29 file, together with supporting and opposing affidavits, if
30 any. If the administrative law judge enters an order
31 relinquishing jurisdiction, the agency may promptly conduct a

1 proceeding pursuant to subsection (2), if appropriate, but the
2 parties may not raise any issues of disputed fact that could
3 have been raised before the administrative law judge. An
4 order entered by an administrative law judge relinquishing
5 jurisdiction to the agency based upon a determination that no
6 genuine dispute of material fact exists, need not contain
7 findings of fact, conclusions of law, or a recommended
8 disposition or penalty.

9 Section 4. This act shall take effect upon becoming a
10 law.

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