

BILL SUMMARIES:

Proposed Committee Resolution

During the past year, there have been some agency rules to which the Administrative Procedures Committee has objected that have remained in full force and effect. These rules are clearly outside the statutory authority, yet the committee did not have the statutory authority to suspend the operation of these rules.

Since the legislature clearly has the power to disapprove a rule as being outside the legislative grant of authority, the legislature could arguably delegate to a committee the power to suspend the operation of a rule.

Proposed Committee Bill (1)

The bill is one of two that implements the proposed constitutional amendment. It grants the power to suspend the operation of the rule and requires the committee to submit to the legislature recommendations for concurrent resolutions disapproving rules. It conforms the powers of section 11.60 to those of Chapter 120.

Proposed Committee Bill (2)

The proposed new section 120.546 would be composed of those sections of Chapter 120 that prescribe the duties of the Administrative Procedures Committee and a more exacting, coherent outline of what courses are open to an agency. This bill incorporates the suspension power and would only become effective upon passage of the proposed constitutional amendment. Section 2, repealing s. 120.545, has been placed there so that it is clear that this version of the committee's duties is the effective one if the electorate ratifies the proposed amendment.

Proposed Committee Bill (3)

At least one circuit court has held that the provision in this subsection which permits administrative actions begun prior to January 1, 1975 to continue to a conclusion under the provisions of Florida Statutes, 1973, applies only to actions covered under old Chapter 120. Since the Department of Revenue was exempt from the old APA, actions brought under Chapter 214 prior to January 1, 1975 were deprived of a forum for appeal under this interpretation. Under that circuit court view, the review provisions of Chapter 214 were repealed by the APA and s. 120.72(2) does not apply. Because the Circuit Court dismissal was on the basis of lack of subject matter jurisdiction, that filing did not toll the time for filing the review in the District Court of Appeal and the time expired awaiting disposition of the review filed in Circuit Court.

Analysis HB 4034
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This Amendment makes it clear to the court that the transition provision of s. 120.72(2) applies to administrative proceedings regardless of whether they were conducted under old Chapter 120, so long as those proceedings were begun prior to January 1, 1975. Provision is also made for reinstatement of cases previously dismissed. See Jacobson v. Thiessen, 320 So. 2d 25 (Fla. App. 1975).