

DATE: 4/24/78

COMMITTEE ACTION: 1. _____

ANALYST

STAFF DIRECTOR

2. _____

1. Hurley _____

Overstreet _____

SENATE STAFF ANALYSIS
AND ECONOMIC IMPACT
STATEMENT

3. _____

2. _____

3. _____

Governmental Operations Committee

BILL NO. AND SPONSOR:
SB 860 by Senators
Gallen, Ware and Hair

Subject: Administrative
Procedures Act

REFERENCES: GOVERNMENTAL OPERATIONS

I. SUMMARY:

Exempts Joint Electric Power Supply Projects created pursuant to ch. 361, F.S., from applications of the Administrative Procedure Act.

Requires agencies, prior to adoption, amendment or repeal of a rule, to prepare an economic impact statement which includes certain provided items.

Requires that each rule adopted be accompanied by a reference to the section or subsection of the Florida Statutes or the Laws of Florida being implemented, interpreted, or made specific.

Specifies that filings required by s. 120.54(11)(b), F.S., be made not less than 21 days or more than 45 days after notice of intended action is promulgated when a public hearing is held but no material is authorized to be submitted and no transcript made.

Provides that a declaratory statement by an agency must set forth that agency's opinion on how a specific statutory provision or agency rule or order applies to a petitioner in his particular set of circumstances.

Provides that an affected party may petition a court for supersedeas to stay enforcement of final agency action without having first petitioned the agency for a stay.

Provides that an agency head shall, under certain circumstances, be disqualified from serving in an agency proceeding notwithstanding s. 112.3143, F.S.

II. PURPOSE:

A. Present Situation

Joint Electric Power Supply Projects are not specifically exempted from applications of the APA.

Agencies adopting, amending, or repealing any rule are required to prepare an economic impact statement using professionally accepted methodology and giving both short and long range consequences. The areas of impact which must be analyzed are enumerated in s. 120.54(2)(a), F.S. Rules adopted must be accompanied by a reference to the section or subsection of law being implemented, interpreted, or made specific.

There is no specific statutory time limitation on rule filings where a hearing is held but no material is authorized to be submitted and no transcript is made. Time limitations are provided when there is no hearing or when there is a hearing and a transcript made or material submitted.

An agency, pursuant to s. 120.565, F.S., is to issue a declaratory statement as to the applicability of any statutory provision or agency rule or order upon receipt of a petition.

An agency may grant, or a reviewing court may order, a stay of final agency action pending judicial review.

Pursuant to s. 120.71, F.S., an agency head shall be disqualified from serving in an agency proceeding under certain circumstances. Section 112.3143, F.S., states that on public officer shall be prohibited from voting, in his official capacity, on any matter provided he makes certain disclosures with respect to his personal concerns which are involved.

B. Effect on Present Situation

Joint Electric Power Supply Projects would be specifically exempt from applications of the APA.

The methodological approach to preparing economic impact statements would be abandoned in favor of a cost-analysis approach, and the form of the analysis would be simplified.

Rules adopted by an agency would be accompanied by a reference to the specific section or subsection of Florida law which the rule implements, interprets or makes specific. In rule adoption proceedings where a hearing is held but no material is authorized to be submitted and no transcript is made, rule filings would be made not less than 21 days or more than 45 days after notice of the proposed adoption is promulgated.

An agency would be required to issue a declaratory statement setting forth the agency's opinion on a specified statute, rule, or order as it applies to the petitioner's particular circumstances. An affected party appealing a final agency action could petition a court for supersedes without first petitioning the agency for a stay.

An agency head could be disqualified from serving in agency proceedings under certain circumstances notwithstanding the prohibition in s. 112.3143, F.S.

III. ECONOMIC CONSIDERATIONS:

- A. Economic Impact on the Public: YES ___ NO X
B. Economic Impact on State or Local Government: YES X NO ___

The simplified economic impact format, as compared to the current requirements, could decrease costs incurred in preparation of such a statement. However, the amount of that cost avoidance cannot be estimated.

IV. COMMENTS:

An identical bill, HB 1751, has been introduced in the House.