

COMMITTEE ON GOVERNMENTAL OPERATIONS

BILL # HB 216 OTHER COMMITTEES OF REFERENCE

SPONSOR Rep. D. L. Jones None

RELATING TO APA; written and COMPANION/ SIMILAR BILLS

oral communications None

April 20, 1981

I. SUMMARY

- A. Present Situation – Chapter 120, Florida Statutes, the administrative procedures act, allows an agency which is conducting a rulemaking proceeding under s. 120.54, FS, to recognize any material which may be judicially recognized, and to incorporate the material into the record. Subsection (6) of s. 120.54, FS, also requires the agency to provide a list of such materials to all parties and allow the parties a reasonable opportunity to examine the materials and offer written comments or rebuttal.

Subsection 11 of s. 120.54 requires those agencies which are required to publish their rules in the Florida Administrative Weekly to include a summary of the rule, and a detailed written statement of the facts and circumstances justifying the rule.

- B. Effect of Proposed Change – This bill would require agencies, in their rulemaking procedures, to fully consider all written and oral testimony respecting the proposed rule.

This bill would also require agencies to include in the Florida Administrative Code, in addition to the items mentioned above, a statement of its reasons for overruling the considerations urged against the agency action.

Sectional Analysis:

Section 1. Amends s. 120.54 to require state agencies to give full consideration to written and oral submissions regarding proposed rules and to require written justification by the agency for overruling considerations urged against the proposed action.

Section 2. Effective date of October 1, 1981.

- II. FISCAL IMPACT -- State agencies are charged for entries in the Florida Administrative Weekly on a per line basis. The provisions of HB 216 will require the printing of additional material. Therefore, there would be an increase in these costs. It is not possible, however, to estimate the volume of comments that will be offered in future administrative rules and the additional printing costs.
- III. COMMENTS -- Presently, while s. 120.54(3) requires the rulemaking agency to give any affected person the opportunity to present evidence and argument on all relevant issues, it does not require the agency to consider this evidence when deciding to adopt, or repeal, a rule.
- IV. PREPARED BY Mark O'Mara
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