

A bill to be entitled

An act relating to administrative procedures; amending s. 120.53, F.S., providing that the formal written protest shall include particular parts; providing for model rules; providing for expedited hearing; providing an appropriation; providing an effective date.

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

Section 1. Paragraphs (b) and (d) of subsection (5) of section 120.53, Florida Statutes, 1984 Supplement, are amended and paragraphs (e) and (f) are added to said subsection to read:

120.53 Adoption of rules of procedure and public inspection.--

(5) An agency which enters into a contract pursuant to the provisions of ss. 282.301-282.313, chapter 255, chapter 287, or chapters 334-349 shall adopt rules specifying procedures for the resolution of protests arising from the contract bidding process. Such rules shall at least provide that:

(b) Any person who is affected adversely by the agency decision or intended decision shall file with the agency a notice of protest in writing within 72 hours after the posting of the bid tabulation or after receipt of the notice of the agency decision or intended decision and shall file a formal written protest within 10 days after the date he filed the notice of protest. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under chapter 120. The formal written protest shall state with particularity those facts that demonstrate that the agency decision or intended decision is arbitrary, capricious, based on a misconception of law, based upon ignorance through lack of inquiry, in violation of law, the result of improper influence, or is otherwise an abuse of the agency's discretion.

(d) The agency, on its own initiative or upon the request of a protestor, shall provide an opportunity to resolve the protest by mutual agreement between the parties within 7 ~~14~~ days, excluding Saturday, Sunday, and legal holidays, of receipt of a formal written protest.

1. If the subject of a protest is not resolved by mutual agreement within 7 ~~14~~ days, excluding Saturday, Sunday, and legal holidays, of receipt of the formal written protest and if there is no disputed issue of material fact, an informal proceeding shall be conducted pursuant to s. 120.57(2) and applicable agency rules before a person whose qualifications have been prescribed by rules of the agency.

2. If the subject of a protest is not resolved by mutual agreement within 7 ~~14~~ days, excluding Saturday, Sunday, and legal holidays, of receipt of the formal written protest and if there is a disputed issue of material fact, the agency shall refer the protest to the division for proceedings under s. 120.57(1).

(e) Upon receipt of a formal written protest referred pursuant to this subsection, the division director shall expedite the hearing and assign a hearing officer who shall conduct a hearing within 15 days of the receipt of the formal written protest by the division. The provisions of this paragraph may be waived upon stipulation by all parties.

(f) The Administration Commission shall promulgate model rules of procedure pursuant to the provisions of s. 120.54(10) for the filing of notice of protests and formal written protests.

Section 2. There is hereby appropriated from the General Revenue Fund to the Division of Administrative Hearings of the Department of Administration an amount sufficient to carry out the purposes of this act.

Section 3. This act shall take effect July 1, 1985.

HOUSE SUMMARY

Provides that formal written protests with respect to the bid solicitation process under the Administrative Procedure Act shall state with particularity those facts that demonstrate that the agency decision is arbitrary, capricious, based on a misconception of law, based upon ignorance through lack of inquiry, in violation of law, the result of improper influence, or otherwise an abuse of the agency's discretion. Provides for expedited hearings. Directs the Administration Commission to promulgate model rules of procedure.