[First Reprint]

ASSEMBLY, No. 1505

STATE OF NEW JERSEY

222nd LEGISLATURE

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SYNOPSIS

Makes various changes to provisions of "Administrative Procedure Act."

CURRENT VERSION OF TEXT

As reported by the Assembly Oversight, Reform and Federal Relations Committee on November 16, 2026, with amendments.

AN ACT concerning State agency procedures and amending P.L.1968, c.410, P.L.2001, c.5, P.L.2011, c.33, and P.L.2017, c.262.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 3 of P.L.1968, c.410 (C.52:14B-3) is amended to read as follows:

3. a. In addition to other rule-making requirements imposed by law, each agency shall:

(1) adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests;

(2) adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available, including a description of all forms and instructions used by the agency, and if not otherwise set forth in an agency's rules, a table of all permits and their fees, violations and penalties, deadlines, processing times and appeals procedures. A complete list of the agency's permits, fees, violations, penalties, deadlines, processing times, and appeals procedures shall also be made available for public viewing through publication on the agency's Internet website;

(3) make available for public viewing, through publication on the agency's Internet website, and through any other means, all final agency orders, decisions, and opinions, in accordance with the provisions of chapter 73 of the laws of 1963 as amended and supplemented (C.47:1A-1 et seq.);

(4) make available for public viewing, through publication on the agency's Internet website, all of the agency's rule-making and public hearing notices, publicity documents, press releases, final and non-confidential agency reports, **[**and**]** rule-making petitions received by the agency pursuant to subsection (f) of section 4 of P.L.1968, c.410 (C.52:14B-4) , all public comments received for each proposed **[1]**[rulemaking]**[1]** rule-making action, and all data sets and other information or resources used in the formulation of a proposed rule, provided that the agency shall not disclose any confidential information or trade secrets, or any information which may pose a security threat to a person or property; **[**and**]**

(5) publish in the New Jersey Register a quarterly calendar setting forth a schedule of the agency's anticipated rule-making activities for the next six months. The calendar shall include the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly AOF committee amendments adopted November 16, 2026.

name of the agency and agency head, a citation to the legal authority authorizing the rule-making action and a synopsis of the subject matter and the objective or purpose of the agency's proposed rules ; and

(6) provide to the Office of Administrative Law all information required for the creation and maintenance of the Statewide database published pursuant to section 1 of P.L.2017, c.262 (C.52:14B-7.1).

In a manner prescribed by the Director of the Office of Administrative Law, each agency shall appropriately publicize that copies of its calendar are available to interested persons for a reasonable fee. The amount of the fee shall be set by the director.

An agency shall notify the Director of the Office of Administrative Law when it wishes to amend its calendar of rule-making activities. Any amendment which involves the addition of any rule-making activity to an agency's calendar shall provide that the agency shall take no action on that matter until at least 45 days following the first publication of the amended calendar in which the announcement of that proposed rule-making activity first appears.

The provisions of this paragraph shall not apply to rule-making:

(a) required or authorized by federal law when failure to adopt rules in a timely manner will prejudice the State;

(b) subject to a specific statutory authorization requiring promulgation in a lesser time period;

(c) involving an imminent peril subject to provisions of subsection (c) of section 4 of P.L.1968, c.410 (C.52:14B-4);

(d) ⟦for which the agency has published a notice of pre-proposal of a rule in accordance with rules adopted by the Director of the Office of Administrative Law⟧ (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill); or

(e) for which a comment period of at least ⟦60⟧ 90 days, commencing on the date of the formal notice of action required pursuant to subsection [1]⟦a.⟧ (a)[1] of section 4 of P.L.1968, c.410 (C.52:14B-4), is provided.

A proposed rule falling within any of the exceptions to the provisions of this subsection shall so indicate in the notice of proposal.

b. A State agency shall not consolidate rule proposals for rules that have no essential relation to one another. Each [1]⟦rulemaking⟧ rule-making[1] action shall be directed toward a single [1]⟦object⟧ subject[1].

(cf: P.L.2013, c.259, s.3)

2. Section 4 of P.L.1968, c.410 (C.52:14B-4) is amended to read as follows:

4. (a) Prior to the adoption, amendment, or repeal of any rule, except as may be otherwise provided, the agency shall:

(1) Give at least [30] 60 days' notice of its intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon. The notice shall be mailed to all persons who have made timely requests of the agency for advance notice of its rule-making proceedings and, in addition to any other public notice required by law, shall be published in the New Jersey Register. Notice shall also be distributed to the news media maintaining a press office to cover the State House Complex, and made available for public viewing through publication on the agency's Internet website. Each agency shall additionally publicize the intended action and shall adopt rules to prescribe the manner in which it will do so. In order to inform those persons most likely to be affected by or interested in the intended action, each agency shall distribute notice of its intended action to interested persons, and shall publicize the same, through the use of an electronic mailing list or similar type of subscription-based e-mail service. Additional publicity methods that may be employed include publication of the notice in newspapers of general circulation or in trade, industry, governmental or professional publications, distribution of press releases to the news media and posting of notices in appropriate locations, including the agency's Internet website. The rules shall prescribe the circumstances under which each additional method shall be employed;

(2) Prepare for public distribution at the time the notice appears in the Register, and make available for public viewing through publication on the agency's Internet website, a statement setting forth a summary of the proposed rule, as well as a clear and concise explanation of the purpose and effect of the rule, the specific legal authority under which its adoption is authorized, a description of the expected socio-economic impact of the rule, including estimates, in dollars, of the proposed rule's effects on annual expenditures by the State, municipalities, businesses, and residents, a regulatory flexibility analysis [,] or the statement of finding that a regulatory flexibility analysis is not required, as provided in section 4 of P.L.1986, c.169 (C.52:14B-19), a jobs impact statement which shall include an assessment of the number of jobs to be generated or lost if the proposed rule takes effect, an agriculture industry impact statement, as provided in section 7 of P.L.1998, c.48 (C.4:1C-10.3), a housing affordability impact statement, a smart growth development impact statement, as provided in section 31 of P.L.2008, c.46 (C.52:14B-4.1b), [and] [1]and[1] a racial and ethnic community criminal justice and public safety impact statement as required in section 3 of P.L.2017, c.286 (C.2C:48B-2) [1][, and a consideration of alternatives to the rule proposal, including a no-

action alternative, with a justification as to why the rule proposal serves the public interest better than the alternatives**]**[1];

(3) Afford all interested persons a reasonable opportunity to submit data, views, comments, or arguments, orally or in writing. The agency shall begin accepting public comment when the public notice is published in the New Jersey Register pursuant to paragraph (1) of this subsection. The agency shall consider fully all written and oral submissions respecting the proposed rule, including any written submissions that are received by the agency through its e-mail systems or electronic mailing lists. If, within **[**30**]** 60 days of the publication of the proposed rule sufficient public interest is demonstrated in an extension of the time for submissions, the agency shall provide an additional 30-day period for the receipt of submissions by interested parties. The agency shall not adopt the proposed rule until after the end of that 30-day extension.

The agency shall conduct a public hearing on the proposed rule at the request of a committee of the Legislature, or a governmental agency or subdivision, **[**or**]** if sufficient public interest is shown, provided such request is made to the agency within **[**30**]** [1]**[**60**]** 30[1] days following publication of the proposed rule in the Register, or if the proposed rule is estimated to cause a substantive increase in expenditures by the State, local governments, businesses, or residents. The agency shall provide at least 15 days' notice of such hearing, shall publish such hearing notice on its Internet website, and shall conduct the hearing in accordance with the provisions of subsection (g) of this section.

The head of each agency shall adopt as part of its rules of practice adopted pursuant to section 3 of P.L.1968, c.410 (C.52:14B-3) definite standards of what constitutes sufficient public interest for conducting a public hearing and for granting an extension pursuant to this paragraph, provided that the express request by at least 50 commenters for an extension or public hearing, as applicable, shall be considered sufficient public interest. The head of each agency shall also adopt as part of its rules of practice adopted pursuant to section 3 of P.L.1968, c.410 (C.52:14B-3) definite standards of what constitutes a substantive increase in expenditures for the purposes of conducting a public hearing pursuant to this paragraph, provided that an increase in expenditures by the State, local governments, businesses, or residents, or any combination thereof, of at least $50 million in a calendar year shall be considered a substantive increase in expenditures; and

(4) Prepare for public distribution, and make available for public viewing through publication on the agency's Internet website, a report listing all parties offering written or oral submissions concerning the rule, summarizing the content of the submissions, and providing the agency's response to the data, views, comments, and arguments contained in the submissions.

(b) A rule prescribing the organization of an agency may be adopted at any time without prior notice or hearing. Such rules shall be effective upon filing in accordance with section 5 of P.L.1968, c.410 (C.52:14B-5) or upon any later date specified by the agency.

(c) If an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon fewer than 30 days' notice and states in writing its reasons for that finding, and the Governor concurs in writing that an imminent peril exists, the agency may proceed to adopt the rule without prior notice or hearing, or upon any abbreviated notice and hearing that it finds practicable. The agency shall publish, on its Internet website, a summary of any rule adopted pursuant to this subsection, and the statement of reasons for the agency's finding that an imminent peril exists. Any rule adopted pursuant to this subsection shall be effective for a period of not more than 60 days, unless each house of the Legislature passes a resolution concurring in its extension for a period of not more than 60 additional days. The rule shall not be effective for more than 120 days unless repromulgated in accordance with normal rule-making procedures.

(d) No rule hereafter adopted is valid unless adopted in substantial compliance with P.L.1968, c.410 (C.52:14B-1 et seq.). A proceeding to contest any rule on the ground of noncompliance with the procedural requirements of P.L.1968, c.410 (C.52:14B-1 et seq.) shall be commenced within one year from the effective date of the rule.

(e) [1]**[**An**]** Except for a rule-making proceeding that does not involve any substantive changes to existing regulations or a rule-making proceeding involving an imminent peril as provided for in subsection (c) of this section, an[1] agency **[**may**]** shall file a [1]pre-proposal[1] notice of intent with respect to a proposed rule-making proceeding with the Office of Administrative Law, for publication in the New Jersey Register at **[**any time**]** least [1]**[**90**]** 30[1] days prior to the formal notice of [1]a rule-making proposal[1] action required in subsection (a) of this section. The [1]pre-proposal[1] notice shall be for the purpose of eliciting the views of interested parties on an action prior to the filing of a formal rule proposal. [1]The pre-proposal notice shall provide sufficient detail of the rule-making proposal to allow interested parties to identify potential impacts of the proposal, including the need for the rule-making statutory authority to be relied upon, and a preliminary impact analysis provided pursuant to paragraph (2) of subsection (a) of this section.[1] Such notice shall be distributed to interested persons through the use of an electronic mailing list or similar type of subscription-based e-mail service, and made available for public viewing through publication on the agency's Internet website. The agency shall afford all interested persons a reasonable opportunity to submit data, [1]elements of

impact analyses to be assessed,[1] views, comments, or arguments, orally or in writing, on the proposed action, and shall fully consider all written and oral submissions, including any written submissions received by the agency through its e-mail systems or electronic mailing lists. An agency may [1]also[1] use informal conferences and consultations as means of obtaining the viewpoints and advice of interested persons with respect to contemplated rule-making. An agency may also appoint committees of experts or interested persons or representatives of the general public to advise it with respect to any contemplated rule-making.

(f) An interested person may petition an agency to adopt a new rule, or amend or repeal any existing rule. Such petition may be submitted to the agency through mail, e-mail, electronic mailing list, or through any other means. Each agency shall prescribe by rule the form for the petition and the procedure for the consideration and disposition of the petition. The petition shall state clearly and concisely:

(1) The substance or nature of the rule-making which is requested;

(2) The reasons for the request and the petitioner's interest in the request; and

(3) References to the authority of the agency to take the requested action.

The petitioner may provide the text of the proposed new rule, amended rule, or repealed rule.

Within 60 days following receipt by an agency of any such petition, the agency shall either: (i) deny the petition, giving a written statement of its reasons; (ii) grant the petition and initiate a rule-making proceeding within 90 days of granting the petition; or (iii) refer the matter for further deliberations, which shall be concluded within 90 days of referring the matter for further deliberations. Upon conclusion of such further deliberations, the agency shall either deny the petition and provide a written statement of its reasons or grant the petition and initiate a rule-making proceeding within 90 days. Upon the receipt of the petition, the agency shall file a notice stating the name of the petitioner and the nature of the request with the Office of Administrative Law for publication in the New Jersey Register. Notice of formal agency action on such petition shall also be filed with the Office of Administrative Law for publication in the Register, and shall be made available for public viewing through publication on the agency's Internet website.

If an agency fails to act in accordance with the time frame set forth in the preceding paragraph, upon written request by the petitioner, the Director of the Office of Administrative Law shall order a public hearing on the rule-making petition and shall provide the agency with a notice of the director's intent to hold the public hearing if the agency does not. If the agency does not provide

notice of a hearing within 15 days of the director's notice, the director shall schedule, and provide the public with a notice of, that hearing at least 15 days prior thereto. Hearing notice shall also be made available for public viewing through publication on the agency's Internet website. If the public hearing is held by the Office of Administrative Law, it shall be conducted by an administrative law judge, a person on assignment from another agency, a person from the Office of Administrative Law assigned pursuant to subsection o. of section 5 of P.L.1978, c.67 (C.52:14F-5), or an independent contractor assigned by the director. The petitioner and the agency shall participate in the public hearing and shall present a summary of their positions on the petition, a summary of the factual information on which their positions on the petition are based and shall respond to questions posed by any interested party. The hearing procedure shall otherwise be consistent with the requirements for the conduct of a public hearing as prescribed in subsection (g) of section 4 of P.L.1968, c.410 (C.52:14B-4), except that the person assigned to conduct the hearing shall make a report summarizing the factual record presented and the arguments for and against proceeding with a rule proposal based upon the petition. This report shall be filed with the agency and delivered or mailed to the petitioner. A copy of the report shall be filed with the Legislature along with the petition for rule-making.

(g) All public hearings shall be conducted by a hearing officer, who may be an official of the agency, a member of its staff, a person on assignment from another agency, a person from the Office of Administrative Law assigned pursuant to subsection o. of section 5 of P.L.1978, c.67 (C.52:14F-5) or an independent contractor. The hearing officer shall have the responsibility to make recommendations to the agency regarding the adoption, amendment or repeal of a rule. These recommendations shall be made public. At the beginning of each hearing, or series of hearings, the agency, if it has made a proposal, shall present a summary of the factual information on which its proposal is based, and shall respond to questions posed by any interested party. Hearings shall be conducted at such times and in locations which shall afford interested parties the opportunity to attend. A verbatim record of each hearing shall be maintained, and copies of the record shall be available to the public at no more than the actual cost, which shall be that of the agency where the petition for rule-making originated.

(h) An interested person may petition an agency to identify a rule that is inconsistent or in conflict with another State or federal rule, and urge the agency to amend the rule in order to resolve the conflict. The petition may be submitted to the agency through mail, e-mail, electronic mailing list, or through any other written means. Each agency shall prescribe by rule the form for the petition and the

procedure for the consideration and disposition of the petition. Within 60 days following receipt by an agency of a complete petition, the agency shall either deny the petition, giving a written statement of its reasons, or grant the petition and initiate a [1]**[**rulemaking**]** rule-making[1] proceeding within 60 days to amend the rule to resolve the conflict or inconsistency. In order to be considered complete, a petition submitted pursuant to this subsection shall state clearly and concisely:

(1) the rules that are conflicting or inconsistent with one another, and a description of the nature of the conflict or inconsistency, including a description of how the conflict or inconsistency may result in a tangible detriment to a person or property;

(2) the reasons for the request and the petitioner's interest in the request;

(3) the petitioner's suggested course of action to resolve the conflict; and

(4) references to the authority of the agency to take the requested action.

(cf: P.L.2017, c.286, s.4)

3. Section 10 of P.L.2001, c.5 (C.52:14B-5.1) is amended to read as follows:

10. a. (Deleted by amendment, P.L.2011, c.45)

b. Every rule adopted on or after the effective date of P.L.2001, c.5 (C.52:14B-4.1a et al.) shall expire seven years following the effective date of the rule unless a sooner expiration date has been established for the rule. The expiration date shall be included in the adoption notice of the rule in the New Jersey Register and noted in the New Jersey Administrative Code.

c. (1) Notwithstanding any other provision of P.L.1968, c.410 (C.52:14B-1 et seq.), or rule adopted pursuant thereto, to the contrary, in the case of a proposed readoption without changes to the existing rule, or a proposed readoption with technical changes as approved by the Office of Administrative Law, an agency may continue in effect an expiring rule for a seven-year period by filing a public notice with the Office of Administrative Law for publication in the New Jersey Register at least 30 days prior to the expiration date of the rule, provided that the agency first performs a conformity analysis to verify that the rule is not inconsistent or in conflict with any other State or federal rules. The notice pursuant to this paragraph shall include the citation for the rule, a general description of the rule, the specific legal authority under which the rule is authorized, and the new expiration date of the rule. The notice pursuant to this paragraph shall be effective upon filing with the Office of Administrative Law.

Upon the receipt of a public notice pursuant to this paragraph, the Office of Administrative Law shall publish the notice in the

New Jersey Register. The new expiration date of the rule shall be noted in the New Jersey Administrative Code.

As used in this paragraph, "technical changes" means changes to: correct spelling, grammar and punctuation; correct codification; update contact information; or correct cross-references.

(2) In the case of a proposed readoption of an expiring rule with substantive changes, an agency may continue the expiring rule for a seven-year period by duly proposing the readoption with substantive changes and readopting the rule prior to its expiration. Upon the filing of a notice of proposed readoption with substantive changes, the expiration date of the rule shall be extended for 180 days, if such notice is filed prior to the expiration of the rule.

As used in this paragraph, "substantive changes" means any changes that are not technical changes as defined in paragraph (1) of this subsection.

d. (1) The Governor may, upon the request of an agency head, and prior to the expiration date of the rule, continue in effect an expiring rule for a period to be specified by the Governor.

(2) The Governor may, upon the request of an agency head within five days after the expiration of a rule, restore the effectiveness of an expired rule as of its expiration date, for a period to be specified by the Governor, in order to effect the readoption of the rule in accordance with subsection c. of this section.

e. This section shall not apply to any rule repealing a rule or any rule prescribed by federal law or whose expiration would violate any other federal or State law, in which case the federal or State law shall be cited in the publication of the rule.

(cf: P.L.2011, c.45, s.1)

4. Section 1 of P.L.2017, c.262 (C.52:14B-7.1) is amended to read as follows:

1. a. The Office of Administrative Law shall establish and maintain, at a publicly accessible location on its Internet website, a searchable database that identifies the number, nature, and current status of all pending or proposed rule-making actions in the State. The database shall include written descriptions and listings of all such pending or proposed State rule-making actions, and shall additionally incorporate the use of charts, tables, graphs, and other graphics or visual aids, as necessary or appropriate, to provide members of the public with a full, complete, and easily comprehensible overview of pending or proposed rule-making actions in the State.

b. (1) The database established and maintained pursuant to subsection a. of this section shall include, with respect to each proposed rule-making action **[**, a summary description that indicates**]** :

(a) the title or subject matter of the rule-making action;

(b) the State agency responsible for the rule-making action;

(c) the identification number, if any, that is associated with the rule-making action;

(d) the types or groups of persons who are the subject of, or who will, or are likely to be, affected by, the rule-making action;

(e) the legal authority for the rule-making action;

(f) the date on which the rule-making action was initiated by the State agency;

(g) the legal deadline, if any, that is associated with the rule-making action;

(h) a concise abstract or synopsis describing the basis for, and pertinent factors necessitating, the rule-making action; **[**and**]**

(i) a timetable showing the history of the rule-making action;

(j) all public comments received related to the rule-making action; and

(k) all data sets and other information or resources used in the formulation of a proposed rule, provided that the Office of Administrative Law shall not disclose any confidential information or trade secrets, or any information which may pose a security threat to a person or property.

(2) The **[**summary description**]** information required by this subsection shall additionally include a brief statement that identifies the potential impacts of the rule-making action on the State and its residents, and the anticipated significance of those impacts. At a minimum, this statement shall indicate:

(a) the type and potential significance of any expected socio-economic impacts associated with the rule-making action, as determined in accordance with the provisions of paragraph (2) of subsection (a) of section 4 of P.L.1968, c.410 (C.52:14B-4);

(b) the number of jobs that will, or are likely to, be generated or lost as a result of the rule-making action, as determined in accordance with the provisions of paragraph (2) of subsection (a) of section 4 of P.L.1968, c.410 (C.52:14B-4);

(c) the type and significance of any expected agricultural industry impacts associated with the rule-making action, as determined in accordance with the provisions of section 7 of P.L.1998, c.48 (C.4:1C-10.3) and paragraph (2) of subsection (a) of section 4 of P.L.1968, c.410 (C.52:14B-4);

(d) whether the State agency has prepared, or will prepare, a regulatory flexibility analysis in connection with the rule-making action, in accordance with the provisions of P.L.1986, c.169 (C.52:14B-16 et seq.) and paragraph (2) of subsection (a) of section 4 of P.L.1968, c.410 (C.52:14B-4); and

(e) if a regulatory flexibility analysis has been prepared in connection with the rule-making action, the estimated number of small businesses that will, or are likely to, be affected by the rule-making action.

c. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the

contrary, ⟦the Office of Administrative Law may require⟧ each State agency shall provide to ⟦provide⟧ the Office of Administrative Law the information to be included in the database ⟦summary description⟧ under subsection b. of this section in association with any notice of proposed rule-making that is submitted by the agency prior to, on, or after, the effective date of this act. The form and manner in which the information will be provided shall be determined by the Office of Administrative Law.

d. The database established and maintained pursuant to subsection a. of this section shall also include distinct listings or graphics that identify the total number of pending rule-making actions by: (1) State agency; (2) rule-making type and stage; and (3) current length, in 30-day intervals, of the State agency review associated therewith, as determined by looking to the date of each rule-making action's initiation by the State agency.

e. The Office of Administrative Law shall make ⟦regular and timely⟧ [1]⟦daily⟧ regular and timely[1] updates to the database established pursuant to subsection a. of this section to ensure that it reflects the most current information pertaining to rule-making actions undertaken by each State agency. The Office of Administrative Law shall indicate, on its Internet website, the date on which the most recent database update was performed pursuant to this subsection.

(cf: P.L.2017, c.262, s.1)

5. Section 10 of P.L.1968, c.410 (C.52:14B-10) is amended to read as follows:

10. In a contested case:

(a) (1) The parties shall not be bound by rules of evidence whether statutory, common law, or adopted formally by the Rules of Court. All relevant evidence is admissible, except as otherwise provided herein. The administrative law judge may, in his discretion , exclude any evidence if he finds that its probative value is substantially outweighed by the risk that its admission will either necessitate undue consumption of time or create substantial danger of undue prejudice or confusion. The administrative law judge shall give effect to the rules of privilege recognized by law. Any party in a contested case may present his case or defense by oral and documentary evidence, submit rebuttal evidence and conduct such cross-examination as may be required, in the discretion of the administrative law judge, for a full and true disclosure of the facts.

(2) Where the case involves a permitting or licensing decision of the Department of Environmental Protection, the department shall be required to produce and certify a permitting record within 30 days after the filing of the contested case. This deadline may be extended by an administrative law judge upon the unanimous agreement of the parties. The production and certification of the

department's permitting record, in accordance with this paragraph, shall not limit the ability of the parties to further supplement the record.

(b) Notice may be taken of judicially noticeable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the specialized knowledge of the agency or administrative law judge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The experience, technical competence, and specialized knowledge of the agency or administrative law judge may be utilized in the evaluation of the evidence, provided this is disclosed of record.

(c) (1) All hearings of a State agency required to be conducted as a contested case under this act or any other law shall be conducted by an administrative law judge assigned by the Director and Chief Administrative Law Judge of the Office of Administrative Law, except as provided by this amendatory and supplementary act. A recommended report and decision which contains recommended findings of fact and conclusions of law and which shall be based upon sufficient, competent, and credible evidence shall be filed, not later than 45 days after the hearing is concluded, with the agency in such form that it may be adopted as the decision in the case and delivered or mailed, to the parties of record with an indication of the date of receipt by the agency head; and an opportunity shall be afforded each party of record to file exceptions, objections, and replies thereto, and to present argument to the head of the agency or a majority thereof, either orally or in writing, as the agency may direct.

(2) Unless the head of the agency or a party requests that the recommended report and decision be filed in writing, the recommended report and decision of the administrative law judge may be filed orally in such appropriate cases as prescribed by the director and if a transcript has been requested pursuant to subsection (e) of section 9 of P.L.1968, c.410 (C.52:14B-9).

(3) An administrative law judge may file a recommended report and decision in the form of a checklist in such appropriate cases and formats as prescribed by the director after consultation with each State agency.

(4) The head of the agency, upon a review of the record submitted by the administrative law judge, shall adopt, reject or modify the recommended report and decision no later than 45 days after receipt of such recommendations. In reviewing the decision of an administrative law judge, the agency head may reject or modify findings of fact, conclusions of law or interpretations of agency policy in the decision, but shall state clearly the reasons for doing so. The agency head may not reject or modify any findings of fact

as to issues of credibility of lay witness testimony unless it is first determined from a review of the record that the findings are arbitrary, capricious or unreasonable or are not supported by sufficient, competent, and credible evidence in the record. In rejecting or modifying any findings of fact, the agency head shall state with particularity the reasons for rejecting the findings and shall make new or modified findings supported by sufficient, competent, and credible evidence in the record. Unless the head of the agency modifies or rejects the report within such period, the decision of the administrative law judge shall be deemed adopted as the final decision of the head of the agency. The recommended report and decision shall be a part of the record in the case. For good cause shown, upon certification by the director and the agency head, the time limits established herein may be subject to a single extension of not more than 45 days. Any additional extension of time shall be subject to, and contingent upon, the unanimous agreement of the parties.

(5) Whenever the head of the agency rejects or modifies the recommended report and decision of an administrative law judge pursuant to paragraph (4) of this subsection, and the modification or rejection is subsequently overturned by judicial review, the agency shall be liable for the plaintiff's attorneys' fees incurred in the court challenge to the final agency decision.

(d) A final decision or order adverse to a party in a contested case shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, separately stated and shall be based only upon the evidence of record at the hearing, as such evidence may be established by rules of evidence and procedure promulgated by the director.

Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. The final decision may incorporate by reference any or all of the recommendations of the administrative law judge. Parties shall be notified either personally or by mail of any decision or order. Upon request a copy of the decision or order shall be delivered or mailed forthwith by registered or certified mail to each party and to his attorney of record.

(e) Except where otherwise provided by law, the administrative adjudication of the agency shall be effective on the date of delivery or on the date of mailing, of the final decision to the parties of record whichever shall occur first, or shall be effective on any date after the date of delivery or mailing, as the agency may provide by general rule or by order in the case. The date of delivery or mailing shall be stamped on the face of the decision.

(f) The head of an agency may order that, in certain appropriate cases, the recommended report and decision of the administrative law judge shall be deemed adopted, immediately on filing thereof

with the agency, as the final decision of the head of the agency. The appropriate cases shall be described in a written order issued by the head of the agency, filed with the director, and made available to the public as a government record. The order shall not include any contested case for which the head of the agency is specifically required by State or federal law to review the recommended report and decision and adopt the final decision. The head of the agency may revise or revoke an order, issued pursuant to this subsection, whenever it is deemed appropriate. The order shall apply to all appropriate contested cases commenced with the agency after the order's issuance and until the order is rescinded or modified. In such appropriate contested cases, the head of the agency shall not have the opportunity to reject or modify the administrative law judge's recommended report and decision pursuant to subsection (c) of this section and the final decision by the administrative law judge shall comply with the requirements of and shall be given the same effect as a final decision of the head of the agency pursuant to subsection (d) of this section.

(g) Whenever the parties in a contested case stipulate to the factual record, and agree that there are no genuine issues of material fact to be adjudicated, the head of the agency may, in his discretion, render a final agency decision on the matter without obtaining the prior input of, or a recommended report and decision from, an administrative law judge.

(cf: P.L.2013, c.236, s.2)

6. This act shall take effect one year after the date of enactment.