

LD4013252

HOUSE BILL NO. 2540

Offered January 23, 1995

A BILL to amend and reenact §§ 9-6.14:3 and 9-6.14:4 of the Code of Virginia, relating to the Administrative Process Act; policy and definitions.

Patrons—Grayson, Christian, Crittenden, Jones, J.C., Melvin, Phillips, Robinson and Van Yahres;
Senators: Calhoun, Gartlan, Howell, Maxwell and Miller, Y.B.

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 9-6.14:3 and 9-6.14:4 of the Code of Virginia are amended and reenacted as follows:

§ 9-6.14:3. Policy.

The purpose of this chapter is to supplement present and future basic laws conferring authority on agencies either to make regulations or decide cases as well as to standardize court review thereof ~~save as laws hereafter enacted may otherwise expressly provide. This chapter does not supersede or repeal additional procedural requirements in such basic laws.~~ *Notwithstanding any other provision in the basic law of any agency subject to this chapter, the procedures and standards for judicial review of agency regulations or case decisions shall be governed by the provisions of this chapter as consistent with applicable federal law.*

§ 9-6.14:4. Definitions.

As used in this chapter:

A. "Agency" means any authority, instrumentality, officer, board or other unit of the state government empowered by the basic laws to make regulations or decide cases.

B. "Agency action" means either an agency's regulation or case decision or both, any violation, compliance, or noncompliance with which could be a basis for the imposition of injunctive orders, penal or civil sanctions of any kind, or the grant or denial of relief or of a license, right, or benefit by any agency or court.

"Aggrieved" means an actual or threatened injury which is fairly traceable to the final case decision of an agency.

C. "Basic law" or "basic laws" means provisions of the Constitution and statutes of the Commonwealth of Virginia authorizing an agency to make regulations or decide cases or containing procedural requirements therefor.

D. "Case" or "case decision" means any agency proceeding or determination that, under laws or regulations at the time, a named party as a matter of past or present fact, or of threatened or contemplated private action, either is, is not, or may or may not be (i) in violation of such law or regulation or (ii) in compliance with any existing requirement for obtaining or retaining a license or other right or benefit.

E. "Hearing" means agency processes other than those informational or factual inquiries of an informal nature provided in §§ 9-6.14:7.1 and 9-6.14:11 of this chapter and includes only (i) opportunity for private parties to submit factual proofs in formal proceedings as provided in § 9-6.14:8 of this chapter in connection with the making of regulations or (ii) a similar right of private parties or requirement of public agencies as provided in § 9-6.14:12 hereof in connection with case decisions.

"Party" includes, but is not limited to, any person who has participated in the public comment process as consistent with applicable federal law or as provided for in guidelines governing public participation promulgated by the agency whose case decision or regulatory action is challenged.

F. "Rule" or "regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by an agency in accordance with the authority conferred on it by applicable basic laws.

G. "Subordinate" means (i) one or more but less than a quorum of the members of a board constituting an agency, (ii) one or more of its staff members or employees, or (iii) any other person or persons designated by the agency to act in its behalf.

H. ~~[Repealed.]~~

INTRODUCED

HB2540