



The Florida Senate

Interim Project Summary 2007-128

December 2006

Committee on Governmental Operations

STATE AGENCY RULES REVIEW

SUMMARY

The project identified approximately¹ 195 exceptions and exemptions to the Administrative Procedure Act, ch. 120, F.S. Agency representatives and staff from 15 committees of the Florida Senate provide the policy rationale for the enactment of each exception and exemption, and recommendations as to whether each exception or exemption should be retained as is, modified, or deleted.

The recommendation for the vast majority of statutory exemptions is for their retention. In some cases, both the agency and committee staff advocate for the deletion or modification of the exemption, and in very few cases, the agency and committee staff disagree as to the recommended action.

BACKGROUND

The Administrative Procedure Act (APA), ch. 120, F.S., determines, among other things, the procedures by which a person challenges the validity of a rule or proposed rule, the procedures by which a party whose substantial interests are determined challenges an agency, and the procedures to be followed when an agency receives an application for a license.

The APA consists in part of general sets of procedures that agencies must follow when acting in ways that impact persons and parties. The Legislature sometimes exempts and excepts, for a variety of reasons, certain agency procedures from the "default" procedures and requirements of the APA. Those exemptions, exceptions, and special requirements are codified

¹ The exact number of exemptions is dependent on whether the exemption is considered at the subsection or paragraph level of the Florida Statutes.

within the APA, at ss. 120.80 and 120.81, and throughout the Florida Statutes.

This project attempts to identify all such statutory exemptions from the APA, provide a policy rationale for their original enactment, and provide a recommendation from both the affected agencies and relevant Florida Senate committee staff as to whether each exemption should be retained as written, modified, or deleted.

METHODOLOGY

In order to discover all statutory exemptions from ch. 120, F.S., a preliminary list of exemptions was given to those committees of the Florida Senate which had oversight responsibility for the identified exemptions. Each committee was tasked with working with relevant agencies to:

- ensure that all exemptions have been located;
- provide the policy rationale for the enactment of the exemption; and
- make a recommendation as to whether the exemption should be retained as is, modified, or deleted.

FINDINGS

The work of the committees and agencies revealed approximately 195 statutory exemptions to the APA.

RECOMMENDATIONS

All agency and committee staff recommendations as to whether each exemption ought to be retained as is, modified, or deleted, are provided in *Report Number 2007-128*. The sheer number and diversity of exemptions preclude a generalized recommendation applicable to all the exemptions, except to note that the recommendation for the vast majority of exemptions is for their retention.

