

52:14B-2

LEGISLATIVE HISTORY CHECKLIST

(Taxation, Division of--contested cases--
exempt from provisions of Administrative
Procedures Act)

NJSA 52:14B-2

LAWS 1980

CHAPTER 166

Bill No. A1530

Sponsor(s) Van Wagner

Date Introduced April 17, 1980

Committee: Assembly Revenue, Finance and Appropriations

Senate Revenue, Finance and Appropriations

Amended during passage Yes No

Date of Passage: Assembly June 9, 1980

Senate October 6, 1980

Date of approval December 10, 1980

Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto Message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

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ASSEMBLY, No. 1530

STATE OF NEW JERSEY

INTRODUCED APRIL 17, 1980

By Assemblyman VAN WAGNER

Referred to Committee on Revenue, Finance and Appropriations

AN ACT to amend "An act concerning practice and procedure of administrative agencies of the State," approved January 14, 1969 (P. L. 1968, c. 410).

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

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

3 2. As used in this act:

4 (a) "State agency" or "agency" shall include each of the
5 principal departments in the executive branch of the State Govern-
6 ment, and all boards, divisions, commissions, agencies, depart-
7 ments, councils, authorities, offices or officers within any such
8 departments now existing or hereafter established and authorized
9 by statute to make, adopt or promulgate rules or adjudicate con-
10 tested cases, except the office of the Governor, the Division of
11 **[Workmen's]** *Workers'* Compensation in the Department of Labor
12 and Industry, the Department of Defense, and any boards,
13 divisions, commissions, councils, agencies, departments, au-
14 thorities, offices or officers therein, and all agencies the primary
15 responsibility of which is the management or operation of a State
16 educational, medical, mental, rehabilitative, custodial, penal or
17 correctional institution or program, insofar as the acts of such
18 agency relate to the internal affairs of such institution or program.

19 (b) "Contested case" means a proceeding, including any licens-
20 ing proceeding, in which the legal rights, duties, obligations,
21 privileges, benefits or other legal relations of specific parties are
22 required by constitutional right or by statute to be determined by
23 an agency by decisions, determinations, or orders, addressed to
24 them or disposing of their interests, after opportunity for an agency
25 hearing, *but shall not include any proceeding in the Division of*

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

26 *Taxation, Department of the Treasury, which is reviewable de novo*
 27 *by the Tax Court.*

28 (c) "Administrative adjudication" or "adjudication" includes
 29 any and every final determination, decision or order made or
 30 rendered in any contested case.

31 (d) "The head of the agency" means and includes the individual
 32 or group of individuals constituting the highest authority within
 33 any agency authorized or required by law to render an adjudication
 34 in a contested case.

35 (e) "Administrative rule" or "rule," when not otherwise
 36 modified, means each agency statement of general applicability and
 37 continuing effect that implements or interprets law or policy, or
 38 describes the organization, procedure or practice requirements of
 39 any agency. The term includes the amendment or repeal of any
 40 rule, but does not include: (1) statements concerning the internal
 41 management or discipline of any agency; (2) intraagency and
 42 interagency statements; and (3) agency decisions and findings in
 43 contested cases.

44 (f) "License" includes the whole or part of any agency license,
 45 permit, certificate, approval, chapter, registration or other form
 46 of permission required by law.

47 (g) "Secretary" means the Secretary of State.

48 (h) "Director" shall mean the Director of the Division of
 49 Administrative Procedure, unless otherwise indicated by context.

1 2. This act shall take effect immediately.

STATEMENT

This bill excludes the Division of Taxation in the Department of the Treasury from the contested provisions of the Administrative Procedure Act.

The new Tax Court has jurisdiction to conduct *de novo* reviews of decisions and determinations of the Director of the Division of Taxation. It is therefore unnecessary for determinations within the Division of Taxation to comply with the requirements of a "contested case." This bill codifies this procedure. This bill conforms to the wording contained in earlier versions of bills designed to provide for an administrative procedures act. This bill has the support of the Attorney General and of the New Jersey State Bar Association.

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A1530(1980)

ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1530

STATE OF NEW JERSEY

DATED: MAY 15, 1980

This bill excludes the Division of Taxation in the Department of the Treasury from the contested provisions of the Administrative Procedure Act.

The new tax court has jurisdiction to conduct *de novo* reviews of decisions and determinations of the Director of the Division of Taxation. It is therefore unnecessary for determinations within the Division of Taxation to comply with the requirements of a "contested case." This bill codifies this procedure. This bill conforms to the wording contained in earlier versions of bills designed to provide for an administrative procedures act. This bill has the support of the Attorney General and of the New Jersey State Bar Association.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

DECEMBER 11, 1980

PATRICK SWEENEY

Governor Brendan Byrne has signed the following bills:

S-1266, sponsored by Senator Steven P. Perskie (D-Atlantic), which provides for the expungement of adjudications of juvenile delinquency.

Under former juvenile law, those records could be sealed, but there was no provision for expunging them. (Sealed records can be maintained by an agency and used internally; expunged records must be removed from the agency's files and placed under the control of a designated custodian who is barred from releasing the records, except as provided by law).

A-1261, sponsored by Assemblyman James W. Bornheimer (D-Middlesex), which authorizes counties to compensate a municipality for vacating or relinquishing any rights which the municipality may have in streets within a county public park or recreational facility in excess of 500 acres. Middlesex County and East Brunswick need this enabling legislation in order to complete their agreement in the James Park acquisition.

A-1418, sponsored by Assemblyman Bornheimer, which governs the cancellation of automobile insurance policies. The bill requires that an insurer send a notice of cancellation or intention not to renew a policy by one of two methods: (1) by certified mail; or (2) by regular mail, but only if the insurer obtains a Postal Service proof of mailing certificate and the insurer has retained a true, certified copy of the mailed notice. The bill also requires insurers to give a 15 day notice of cancellation for non-payment of a premium where the cancellation is accompanied by a notice of the reasons for the cancellation.

A-1530, sponsored by Assemblyman Richard Van Wagner (D-Monmouth), which would exempt hearings in the Division of Taxation from the "contested case" provisions of the Administrative Procedure Act. This bill will eliminate the possibility of duplicative formal hearings.