

# House Research Act Summary

**CHAPTER:** 106

**SESSION:** 2001 Regular Session

**TOPIC:** Administrative Rulemaking

**Date:** May 22, 2001

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## Overview

Makes various relatively minor and technical changes to the laws governing state agency rulemaking.

### Section

- 1 **Authority to withdraw proposed rule.** Authorizes an agency to withdraw a portion of a rule before it takes effect (under current law, an agency has authority to withdraw an entire proposed rule).
- 2 **Approval of form.** Provides that the revisor of statutes approval of form of rules applies to rules adopted under an exempt or expedited process.
- 3 **Approval of rule.** Provides that an agency need submit only one (instead of two) copies of a proposed rule to the chief administrative law judge. Provides for timing and manner of transfer of the proposed rule between the chief administrative law judge and the revisor.
- 4 **Notice.** Requires an agency to solicit public comments on possible rules within 60 days of any amendatory law requiring rules to be adopted, amended, or repealed (under current law this requirement applies to new required rulemaking).
- 5 **Advisory committees.** Strikes a requirement that an agency annually publish the membership of its rulemaking advisory committees in the state register.
- 6 **Reduction of time period.** Requires that for good cause the chief administrative law judge must reduce the time period for required notice soliciting public comments on possible rules from 60 to 30 days after the effective date of the law requiring the rulemaking.
- 7 **Statement of need and reasonableness.** Provides that the statement of need and reasonableness must be prepared by the time notice of a rulemaking hearing is published and mailed (instead of before the agency orders publication of the notice).
- 8 **Notice.** Requires the description of the rule issued at the time of notice of hearing to be easily readable and understandable. Refers to a person's right to receive notice of intent to adopt a rule,

rather than to notice that a rule has been adopted, in section referring to state register publication.

- 9 **Time of preparation.** Clarifies that the five-day period for post-public hearing comment to the administrative law judge is a rebuttal period that begins after the end of an initial 20-day submission period. Permits the agency to indicate agreement to amendments during the initial submission period, as well as the rebuttal period.
- 10 **Review of modifications.** Provides that all agency rule modifications after the administrative law judge report must be approved as to form by the revisor, and reviewed for legality by the chief administrative law judge.
- 11 **Deadline.** Provides that the 180 day deadline for an agency to adopt rules after an office of administrative hearings report starts with any report of the chief administrative law judge. Provides that if an agency misses the deadline and has to start the rulemaking process over, the chief administrative law judge may excuse compliance with the initial notice soliciting public comment.
- 12 **Notice.** When giving notice of intent to adopt a rule without a public hearing, requires an agency to make reasonable efforts to notify classes of people not on the agency mailing list, who may be affected by a rule. Requires an "easily readable and understandable" description of a proposed rule.
- 13 **Statement of need and reasonableness.** Clarifies when the statement of need and reasonableness is prepared and when a copy is sent to the legislative reference library.
- 14 **Public hearing.** Upon request of 25 people for a public hearing, provides that if notice of the public hearing has previously been published in the state register, it need not be published there again. Forbids an agency from canceling a public hearing within three working days of the hearing. Clarifies provisions relating to withdrawal of requests for a public hearing.
- 15 **Submission.** Provides that when an agency withdraws rules, it may not adopt them again without following customary rulemaking procedures. Permits the chief administrative law judge to waive the initial solicitation of public comments before the proposed rule is published.
- 16 **Review.** Requires the administrative law judge to file four, instead of three, copies of an approved rule with the secretary of state. Requires the secretary to forward the extra copy to the agency.
- 17 **Rulemaking record.** Limits the required contents of the record to material received after publication of notice in the state register.
- 18 **Retroactive application.** Corrects an outdated reference.
- 19 **Exempt rules.** Adds a requirement that the agency adopt the rule to conditions under which rules exempt from rulemaking procedures have the force of law.
- 20 **Good cause exemption.** Strikes an unnecessary cross-reference.
- 21 **Notice and comment.** Requires an easily readable and understandable summary of the overall nature and effect of a proposed rule under the expedited rulemaking process.
- 22 **Effective dates.** Applies to rules for which notice is published after August 1, 2001.