

1                                   **STATE AGENCY TIMELY ADOPTION OF**  
2                                   **ADMINISTRATIVE RULES**

3                                   2007 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: David Clark**

6                                   Senate Sponsor: Howard A. Stephenson

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8 **LONG TITLE**

9 **General Description:**

10                   This bill requires state agencies to submit administrative rules required by law to the  
11 Division of Administrative Rules for publishing within six months of the passage of the  
12 law and requires state agencies who do not meet the deadline to show cause.

13 **Highlighted Provisions:**

14                   This bill:

- 15                   ▶ requires state agencies to submit to the Division of Administrative Rules for
- 16 publishing any rules required by statute within 180 days of the effective date of the
- 17 statute; and
- 18                   ▶ requires state agencies that do not meet the deadline for publishing required rules to
- 19 appear before the legislative Administrative Rules Review Committee to provide
- 20 reasons for the delay.

21 **Monies Appropriated in this Bill:**

22                   None

23 **Other Special Clauses:**

24                   None

25 **Utah Code Sections Affected:**

26 AMENDS:

27                   **63-46a-4**, as last amended by Chapter 141, Laws of Utah 2006

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29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **63-46a-4** is amended to read:

31 **63-46a-4. Rulemaking procedure.**

32 (1) An agency authorized to make rules is also authorized to amend or repeal those  
33 rules.

34 (2) Except as provided in Sections 63-46a-6 and 63-46a-7, when making, amending, or  
35 repealing a rule agencies shall comply with:

- 36 (a) the requirements of this section;
- 37 (b) consistent procedures required by other statutes;
- 38 (c) applicable federal mandates; and
- 39 (d) rules made by the division to implement this chapter.

40 (3) Subject to the requirements of this chapter, each agency shall develop and use  
41 flexible approaches in drafting rules that meet the needs of the agency and that involve persons  
42 affected by the agency's rules.

43 (4) (a) Each agency shall file its proposed rule and rule analysis with the division.

44 (b) Rule amendments shall be marked with new language underlined and deleted  
45 language struck out.

46 (c) (i) The division shall publish the information required under this Subsection (4) on  
47 the rule analysis and the text of the proposed rule in the next issue of the bulletin.

48 (ii) For rule amendments, only the section or subsection of the rule being amended  
49 need be printed.

50 (iii) If the director determines that the rule is too long to publish, the director shall  
51 publish the rule analysis and shall publish the rule by reference to a copy on file with the  
52 division.

53 (5) Prior to filing a rule with the division, the department head shall consider and  
54 comment on the fiscal impact a rule may have on businesses.

55 (6) The rule analysis shall contain:

- 56 (a) a summary of the rule or change;
- 57 (b) the purpose of the rule or reason for the change;

- 58 (c) the statutory authority or federal requirement for the rule;
- 59 (d) the anticipated cost or savings to:
  - 60 (i) the state budget;
  - 61 (ii) local governments; and
  - 62 (iii) other persons;
- 63 (e) the compliance cost for affected persons;
- 64 (f) how interested persons may review the full text of the rule;
- 65 (g) how interested persons may present their views on the rule;
- 66 (h) the time and place of any scheduled public hearing;
- 67 (i) the name and telephone number of an agency employee who may be contacted
- 68 about the rule;
- 69 (j) the name of the agency head or designee who authorized the rule;
- 70 (k) the date on which the rule may become effective following the public comment
- 71 period; and
- 72 (l) comments by the department head on the fiscal impact the rule may have on
- 73 businesses.
- 74 (7) (a) For a rule being repealed and reenacted, the rule analysis shall contain a
- 75 summary that generally includes the following:
  - 76 (i) a summary of substantive provisions in the repealed rule which are eliminated from
  - 77 the enacted rule; and
  - 78 (ii) a summary of new substantive provisions appearing only in the enacted rule.
- 79 (b) The summary required under this Subsection (7) is to aid in review and may not be
- 80 used to contest any rule on the ground of noncompliance with the procedural requirements of
- 81 this chapter.
- 82 (8) A copy of the rule analysis shall be mailed to all persons who have made timely
- 83 request of the agency for advance notice of its rulemaking proceedings and to any other person
- 84 who, by statutory or federal mandate or in the judgment of the agency, should also receive
- 85 notice.

86 (9) (a) Following the publication date, the agency shall allow at least 30 days for public  
87 comment on the rule.

88 (b) The agency shall review and evaluate all public comments submitted in writing  
89 within the time period under Subsection (9)(a) or presented at public hearings conducted by the  
90 agency within the time period under Subsection (9)(a).

91 (10) (a) Except as provided in Sections 63-46a-6 and 63-46a-7, a proposed rule  
92 becomes effective on any date specified by the agency that is no fewer than seven calendar days  
93 after the close of the public comment period under Subsection (9), nor more than 120 days after  
94 the publication date.

95 (b) The agency shall provide notice of the rule's effective date to the division in the  
96 form required by the division.

97 (c) The notice of effective date may not provide for an effective date prior to the date it  
98 is received by the division.

99 (d) The division shall publish notice of the effective date of the rule in the next issue of  
100 the bulletin.

101 (e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is  
102 not filed with the division within 120 days of publication.

103 (11) (a) As used in this Subsection (11), "initiate rulemaking proceedings" means the  
104 filing, for the purposes of publication in accordance with Subsection (4), of an agency's  
105 proposed rule that is required by state statute.

106 (b) A state agency shall initiate rulemaking proceedings no later than 180 days after the  
107 effective date of the statutory provision that requires the rulemaking.

108 (c) If a state agency does not initiate rulemaking proceedings in accordance with the  
109 time requirements in Subsection (11)(b), the state agency shall appear before the legislative  
110 Administrative Rules Review Committee and provide the reasons for the delay.