

1                   **ADMINISTRATIVE RULES REVIEW COMMITTEE**

2                                   **AUTHORITY**

3   2015 GENERAL SESSION

4   STATE OF UTAH



5  
6   **LONG TITLE**

7   **General Description:**

8           This bill modifies provisions relating to the authority and duties of the Administrative  
9           Rules Review Committee.

10 **Highlighted Provisions:**

11       This bill:

- 12       ▶ defines terms;
- 13       ▶ establishes a procedure by which a person may submit a complaint to the
- 14           Administrative Rules Review Committee if the person believes that a political
- 15           subdivision's ordinance:
  - 16           • violates state law; or
  - 17           • if the ordinance was enacted in response to a state statute, does not comply with
  - 18           the statute's legislative intent; and
- 19       ▶ makes technical and conforming changes.

20 **Money Appropriated in this Bill:**

21       None

22 **Other Special Clauses:**

23       None

24 **Utah Code Sections Affected:**

25 AMENDS:

26       **63G-3-102**, as renumbered and amended by Laws of Utah 2008, Chapter 382

27       **63G-3-501**, as renumbered and amended by Laws of Utah 2008, Chapter 382

28 ENACTS:

29       **63G-3-503**, Utah Code Annotated 1953



30  
31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **63G-3-102** is amended to read:

33 **63G-3-102. Definitions.**

34 As used in this chapter:

35 (1) "Administrative record" means information an agency relies upon when making a  
36 rule under this chapter including:

37 (a) the proposed rule, change in the proposed rule, and the rule analysis form;

38 (b) the public comment received and recorded by the agency during the public  
39 comment period;

40 (c) the agency's response to the public comment;

41 (d) the agency's analysis of the public comment; and

42 (e) the agency's report of its decision-making process.

43 (2) "Agency" means each state board, authority, commission, institution, department,  
44 division, officer, or other state government entity other than the Legislature, its committees, the  
45 political subdivisions of the state, or the courts, which is authorized or required by law to make  
46 rules, adjudicate, grant or withhold licenses, grant or withhold relief from legal obligations, or  
47 perform other similar actions or duties delegated by law.

48 (3) "Bulletin" means the Utah State Bulletin.

49 (4) "Catchline" means a short summary of each section, part, rule, or title of the code  
50 that follows the section, part, rule, or title reference placed before the text of the rule and serves  
51 the same function as boldface in legislation as described in Section 68-3-13.

52 (5) "Code" means the body of all effective rules as compiled and organized by the  
53 division and entitled "Utah Administrative Code."

54 (6) "Director" means the director of the Division of Administrative Rules.

55 (7) "Division" means the Division of Administrative Rules.

56 (8) "Effective" means operative and enforceable.

57 (9) (a) "File" means to submit a document to the division as prescribed by the division.

58 (b) "Filing date" means the day and time the document is recorded as received by the  
59 division.

60 (10) "Interested person" means any person affected by or interested in a proposed rule,  
61 amendment to an existing rule, or a nonsubstantive change made under Section 63G-3-402.

62 (11) "Order" means an agency action that determines the legal rights, duties, privileges,

63 immunities, or other interests of one or more specific persons, but not a class of persons.

64 (12) (a) "Ordinance" means a political subdivision's written statement that:

65 (i) applies to a class of persons; and

66 (ii) affects the class of persons' legal rights.

67 (b) "Ordinance" does not include:

68 (i) a ruling or other written statement from an adjudicative proceeding; or

69 (ii) a political subdivision's written statement that applies only to internal management

70 and does not affect the legal rights of a class of persons.

71 ~~(12)~~ (13) "Person" means any individual, partnership, corporation, association,

72 governmental entity, or public or private organization of any character other than an agency.

73 ~~(13)~~ (14) "Publication" or "publish" means making a rule available to the public by

74 including the rule or a summary of the rule in the bulletin.

75 ~~(14)~~ (15) "Publication date" means the inscribed date of the bulletin.

76 ~~(15)~~ (16) "Register" may include an electronic database.

77 ~~(16)~~ (17) (a) "Rule" means an agency's written statement that:

78 (i) is explicitly or implicitly required by state or federal statute or other applicable law;

79 (ii) implements or interprets a state or federal legal mandate; and

80 (iii) applies to a class of persons or another agency.

81 (b) "Rule" includes the amendment or repeal of an existing rule.

82 (c) "Rule" does not mean:

83 (i) orders;

84 (ii) an agency's written statement that applies only to internal management and that

85 does not restrict the legal rights of a public class of persons or another agency;

86 (iii) the governor's executive orders or proclamations;

87 (iv) opinions issued by the attorney general's office;

88 (v) declaratory rulings issued by the agency according to Section 63G-4-503 except as

89 required by Section 63G-3-201;

90 (vi) rulings by an agency in adjudicative proceedings, except as required by Subsection

91 63G-3-201(6); or

92 (vii) an agency written statement that is in violation of any state or federal law.

93 ~~(17)~~ (18) "Rule analysis" means the format prescribed by the division to summarize

94 and analyze ~~[rules]~~ a rule.

95 ~~[(18)]~~ (19) "Small business" means a business employing fewer than 50 persons.

96 ~~[(19)]~~ (20) "Substantive change" means a change in a rule that affects the application  
97 or results of agency actions.

98 Section 2. Section **63G-3-501** is amended to read:

99 **63G-3-501. Administrative Rules Review Committee.**

100 (1) (a) There is created an Administrative Rules Review Committee of ~~[10 permanent~~  
101 ~~members and four ex officio members.]~~ the following 10 permanent members:

102 ~~[(b) (i) The committee's permanent members shall be composed of]~~ (i) five members  
103 of the Senate~~;~~ appointed by the president of the Senate, no more than three of whom may be  
104 from the same political party; and

105 (ii) five members of the House~~;~~ of Representatives appointed by the speaker of the  
106 House of Representatives, ~~[with]~~ no more than three ~~[senators and three representatives]~~ of  
107 whom may be from the same political party.

108 ~~[(ii) The permanent members shall convene at least once each month as a committee to~~  
109 ~~review new agency rules, amendments to existing agency rules, and repeals of existing agency~~  
110 ~~rules. Meetings may be suspended at the discretion of the committee chairs.]~~

111 ~~[(iii) Members]~~ (b) Each permanent member shall serve:

112 (i) for a two-year ~~[terms]~~ term; or

113 (ii) until ~~[their successors are]~~ the permanent member's successor is appointed.

114 ~~[(iv)]~~ (c) (i) A vacancy exists ~~[whenever a committee]~~ when a permanent member  
115 ceases to be a member of the Legislature, or when a permanent member resigns from the  
116 committee. ~~[Vacancies shall be filled by the appointing authority, and the replacement shall~~  
117 ~~serve out the unexpired term.]~~

118 (ii) When a vacancy exists:

119 (A) if the departing member is a member of the Senate, the president of the Senate  
120 shall appoint a member of the Senate to fill the vacancy; or

121 (B) if the departing member is a member of the House of Representatives, the speaker  
122 of the House of Representatives shall appoint a member of the House of Representatives to fill  
123 the vacancy.

124 (iii) The newly appointed member shall serve the remainder of the departing member's

125 unexpired term.

126 ~~[(c) When the committee reviews existing rules, the committee's permanent members~~  
 127 ~~shall invite the Senate and House chairmen of the standing committee and the Senate and~~  
 128 ~~House chairmen of the appropriation subcommittee that have jurisdiction over the agency~~  
 129 ~~whose existing rules are being reviewed to participate as nonvoting, ex officio members with~~  
 130 ~~the committee.]~~

131 (d) (i) The president of the Senate shall designate a member of the Senate appointed  
 132 under Subsection (1)(a)(i) as a cochair of the committee.

133 (ii) The speaker of the House of Representatives shall designate a member of the  
 134 House of Representatives appointed under Subsection (1)(a)(ii) as a cochair of the committee.

135 ~~[(d)]~~ (e) Three representatives and three senators from the permanent members are a  
 136 quorum for the transaction of business at any meeting.

137 (f) (i) Subject to Subsection (1)(f)(ii), the committee shall meet at least once each  
 138 month to review new agency rules, amendments to existing agency rules, repeals of existing  
 139 agency rules, and issues raised in complaints submitted under Section 63G-3-503.

140 (ii) The committee chairs may suspend the meeting requirement described in  
 141 Subsection (1)(f)(i) at the committee chairs' discretion.

142 ~~(2) [Each agency rule as defined in Section 63G-3-102 shall be submitted]~~ An agency  
 143 shall submit a copy of each proposed rule to the committee at the same time the agency gives  
 144 public notice [is given] under Section 63G-3-301.

145 ~~(3) (a) The committee shall exercise continuous oversight of the [process of]~~  
 146 rulemaking process.

147 ~~(b) The committee shall examine [rules] each rule submitted by [each] an agency to~~  
 148 determine:

149 ~~(i) whether or not [they are] the rule is~~ authorized by statute;

150 ~~(ii) whether or not [they comply] the rule complies~~ with legislative intent;

151 ~~(iii) [their] the rule's impact on the economy and the government operations of the state~~  
 152 and local political subdivisions; and

153 ~~(iv) [their] the rule's impact on affected persons.~~

154 ~~(c) To carry out these duties, the committee may examine any other issues that [it] the~~  
 155 committee considers necessary. The committee may also notify and refer rules to the

156 ~~[chairmen]~~ chairs of the interim committee ~~[which]~~ that has jurisdiction over a particular  
 157 agency when the committee determines that an issue involved in an agency's rules may be more  
 158 appropriately addressed by that committee.

159 (d) In reviewing ~~[the rules]~~ a rule, the committee shall follow generally accepted  
 160 principles of statutory construction.

161 (4) When the committee reviews existing rules, the committee chairs shall invite the  
 162 Senate and House chairs of the standing committee and of the appropriation subcommittee that  
 163 have jurisdiction over the agency whose existing rules are being reviewed to participate as  
 164 nonvoting, ex officio members with the committee.

165 ~~[(4)]~~ (5) The committee may request that the Office of the Legislative Fiscal Analyst  
 166 prepare a fiscal note on any rule.

167 ~~[(5)]~~ (6) In order to accomplish ~~[its oversight]~~ the committee's functions described in  
 168 this chapter, the committee has all the powers granted to legislative interim committees ~~[as set~~  
 169 ~~forth in]~~ under Section 36-12-11.

170 ~~[(6)]~~ (7) (a) The committee may prepare written findings of ~~[its]~~ the committee's  
 171 review of ~~[each]~~ a rule and may include any recommendations, including legislative action.

172 (b) ~~[The]~~ When the committee reviews a rule, the committee shall provide to the  
 173 agency that enacted the rule:

174 (i) ~~[its]~~ the committee's findings, if any; and

175 (ii) a request that the agency notify the committee of any changes ~~[it]~~ the agency makes  
 176 ~~[in]~~ to the rule.

177 (c) The committee shall provide ~~[its]~~ a copy of the committee's findings, if any, to:

178 (i) any member of the Legislature ~~[and to]~~, upon request:

179 (ii) any person affected by the rule ~~[who requests the findings.],~~ upon request:

180 (iii) the president of the Senate;

181 (iv) the speaker of the House;

182 (v) the Senate and House chairs of the standing committee that has jurisdiction over the  
 183 agency that made the rule; and

184 (vi) the Senate and House chairs of the appropriation subcommittee that has  
 185 jurisdiction over the agency that made the rule.

186 ~~[(d)]~~ The committee shall provide its findings to the presiding officers of both the

187 ~~House and the Senate, Senate and House chairs of the standing committee, and the Senate and~~  
 188 ~~House chairs of the Appropriation Subcommittee that have jurisdiction over the agency whose~~  
 189 ~~rules are the subject of the findings.]~~

190 ~~[(7)] (8)~~ (a) The committee may submit a report on its review of state agency rules to  
 191 each member of the Legislature at each regular session.

192 (b) The report shall include:

193 (i) ~~[the]~~ any findings and recommendations the committee made [by the committee]  
 194 under Subsection (6);

195 (ii) any action ~~[taken by]~~ an agency took in response to committee recommendations;  
 196 and

197 (iii) any recommendations by the committee for legislation.

198 Section 3. Section **63G-3-503** is enacted to read:

199 **63G-3-503. Complaint process for ordinances -- Committee oversight.**

200 (1) As used in this section, "political subdivision" means a county, city, town, school  
 201 district, local district, or special service district.

202 (2) A person may submit a complaint to the Administrative Rules Review Committee  
 203 if the person believes that a political subdivision's ordinance:

204 (a) violates state law; or

205 (b) if the ordinance was enacted in response to a state statute, does not comply with the  
 206 statute's legislative intent.

207 (3) A complaint described in Subsection (2) shall include:

208 (a) the complainant's name, address, telephone number, and email address;

209 (b) a copy of the ordinance;

210 (c) (i) a copy of the state statute that the complainant believes the ordinance violates; or

211 (ii) if the complainant believes an ordinance enacted in response to a state statute fails  
 212 to comply with the statute's legislative intent, a copy of the statute that prompted the political  
 213 subdivision to enact the ordinance; and

214 (d) a detailed explanation of how the complainant believes the ordinance violates state  
 215 law or fails to comply with legislative intent.

216 (4) (a) When the committee receives a complaint under Subsection (2), the committee  
 217 may conduct a hearing on the issue described in the complaint at a committee meeting.

218           (b) If the committee decides to hold a hearing described in Subsection (4)(a), the  
219 political subdivision that enacted the ordinance that is the subject of the complaint shall appear  
220 before the committee.

221           (c) In conducting a hearing described in Subsection (4)(a), the committee may examine  
222 any other issues that the committee considers necessary.