

Representative Chad E. Bennion proposes to substitute the following bill:

**TIMELY AGENCY REVIEW OF CERTAIN
APPLICATIONS**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Chad E. Bennion

This act enacts statutes governing review and action by state agencies on applications and other requests for permits, licenses, and authorizations from state agencies. The act modifies the name and duties of the Administrative Rules Review Committee.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

63-46a-11, as last amended by Chapter 332, Laws of Utah 1998

ENACTS:

63-98-101, Utah Code Annotated 1953

63-98-102, Utah Code Annotated 1953

63-98-201, Utah Code Annotated 1953

63-98-301, Utah Code Annotated 1953

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

Section 1. Section **63-46a-11** is amended to read:

63-46a-11. Administrative Rules Review Committee.

(1) (a) There is created an Administrative Rules and Regulatory Permit Review Committee of ten permanent members and four ex officio members.

(b) (i) The committee's permanent members shall be composed of five members of the Senate, appointed by the president of the Senate, and five members of the House, appointed by the speaker of the House, with no more than three senators and three representatives from the same political party.



26 (ii) The permanent members shall convene at least once each month as a committee to
27 review new agency rules, amendments to existing agency rules, and repeals of existing agency
28 rules and to adjudicate, as required or authorized by Section 63-98-301, agency failures to grant
29 regulatory permits as required by Section 63-98-201. Meetings may be suspended at the discretion
30 of the committee chairs.

31 (iii) Members shall serve for two-year terms or until their successors are appointed.

32 (iv) A vacancy exists whenever a committee member ceases to be a member of the
33 Legislature, or when a member resigns from the committee. Vacancies shall be filled by the
34 appointing authority, and the replacement shall serve out the unexpired term.

35 (c) When the committee reviews existing rules, the committee's permanent members shall
36 invite the Senate and House chairmen of the standing committee and the Senate and House
37 chairmen of the appropriation subcommittee that have jurisdiction over the agency whose existing
38 rules are being reviewed to participate as nonvoting, ex officio members with the committee.

39 (d) Three representatives and three senators from the permanent members are a quorum for
40 the transaction of business at any meeting.

41 (2) Each agency rule as defined in Section 63-46a-2 shall be submitted to the committee
42 at the same time public notice is given under Section 63-46a-4.

43 (3) (a) The committee shall exercise continuous oversight of the process of rulemaking.

44 (b) The committee shall examine rules submitted by each agency to determine:

45 (i) whether or not they are authorized by statute;

46 (ii) whether or not they comply with legislative intent;

47 (iii) their impact on the economy and the government operations of the state and local
48 political subdivisions; and

49 (iv) their impact on affected persons.

50 (c) To carry out these duties, the committee may examine any other issues that it considers
51 necessary. The committee may also notify and refer rules to the chairmen of the interim committee
52 which has jurisdiction over a particular agency when the committee determines that an issue
53 involved in an agency's rules may be more appropriately addressed by that committee.

54 (d) In reviewing the rules, the committee shall follow generally accepted principles of
55 statutory construction.

56 (4) The committee may request that the Office of the Legislative Fiscal Analyst prepare

57 a fiscal note on any rule.

58 (5) In order to accomplish its oversight functions, the committee has all the powers granted
59 to legislative interim committees as set forth in Section 36-12-11.

60 (6) (a) The committee may prepare written findings of its review of each rule and may
61 include any recommendations, including legislative action.

62 (b) The committee shall provide to the agency that enacted the rule:

63 (i) a copy of its findings, if any; and

64 (ii) a request that the agency notify the committee of any changes it makes in the rule.

65 (c) The committee shall provide a copy of its findings to any member of the Legislature
66 and to any person affected by the rule who requests a copy.

67 (d) The committee shall provide a copy of its findings to the presiding officers of both the
68 House and the Senate, Senate and House chairmen of the standing committee, and the Senate and
69 House chairmen of the Appropriation Subcommittee that have jurisdiction over the agency whose
70 rules are the subject of the findings.

71 (7) (a) The committee may submit a report on its review of state agency rules to each
72 member of the Legislature at each regular session.

73 (b) The report shall include:

74 (i) the findings and recommendations made by the committee under Subsection (6);

75 (ii) any action taken by an agency in response to committee recommendations; and

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

77 Section 2. Section **63-98-101** is enacted to read:

78 **CHAPTER 98. UTAH FAIR GOVERNMENT PRACTICES ACT**

79 **Part 1. General Provisions**

80 **63-98-101. Title.**

81 This chapter is known as the "Utah Fair Government Practices Act."

82 Section 3. Section **63-98-102** is enacted to read:

83 **63-98-102. Definitions.**

84 As used in this chapter:

85 (1) (a) "Agency" means the state of Utah or any department, division, or agency or other
86 administrative subunit of the state.

87 (b) "Agency" does not include:

- 88 (i) a court or other instrumentality of the judicial branch;
- 89 (ii) the Legislature or other instrumentality of the legislative branch;
- 90 (iii) a municipality, county, school district, or special district; or
- 91 (iv) an interlocal agency organized under Title 11, Chapter 13, Interlocal Cooperation Act,
- 92 unless an agency is a member.

93 (2) "Applicant" means the person or entity applying for a permit.

94 (3) "Application" means an application, petition, notice of intent, request for agency
95 action, or other request for a permit.

96 (4) "Permit" means an approval, order, license, authorization, or other action by an agency
97 granting a right or entitlement to a person under the laws of the state.

98 Section 4. Section **63-98-201** is enacted to read:

99 **Part 2. Action on Applications**

100 **63-98-201. State agencies action on applications.**

101 State agencies shall act in a timely, efficient, and responsive manner in reviewing and
102 making decisions on applications by its citizens for permits.

103 Section 5. Section **63-98-301** is enacted to read:

104 **Part 3. Remedies**

105 **63-98-301. Request and review by Administrative Rules and Regulatory Permit**
106 **Review Committee.**

107 (1) (a) If an agency fails to grant or deny an application for a permit as required by Section
108 63-98-201, the applicant may submit a request for review to the Administrative Rules and
109 Regulatory Permit Review Committee.

110 (b) The Administrative Rules and Regulatory Permit Review Committee may initiate a
111 review of an application for a permit.

112 (2) When the committee receives or initiates the request, the chairs of the committee shall
113 place the issue on an agenda to be considered at a meeting held within 30 days from the date the
114 committee receives or initiates the request.

115 (3) At the meeting, the committee shall hear testimony from the applicant and from the
116 agency.

117 (4) The agency failing to make the decision shall report to the committee its reasons for
118 failing to make a timely decision.

119 (5) If the committee finds, by substantial evidence, that the agency has failed to grant or
120 deny a permit as required by Section 63-98-201, the committee shall direct the agency to refund
121 the applicant's permit or application fee.