

1 **ADMINISTRATIVE RULEMAKING AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis Oda**

5 Senate Sponsor: Howard A. Stephenson

7 **LONG TITLE**

8 **Committee Note:**

9 The Administrative Rules Review Committee recommended this bill.

10 **General Description:**

11 This bill modifies Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ modifies the five-year review filing requirements;
- 15 ▶ provides that the division's failure to give an agency notice of a five-year review
- 16 deadline does not exempt the agency's compliance with the provisions in this bill;
- 17 ▶ clarifies the penalty for an agency's failure to timely comply with the five-year
- 18 review requirements; and
- 19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 This bill takes effect on July 1, 2014.

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **63G-3-305**, as last amended by Laws of Utah 2012, Chapter 384



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

29 Section 1. Section **63G-3-305** is amended to read:

30 **63G-3-305. Agency review of rules -- Schedule of filings -- Limited exemption for**
31 **certain rules.**

32 (1) Each agency shall review each of its rules within five years [~~of~~] after the rule's
33 original effective date or within five years [~~of~~] after the filing of the last five-year review,
34 whichever is later. [~~Rules effective prior to 1992 need not be reviewed until 1997.~~]

35 (2) An agency may consider any substantial review of a rule to be a five-year review[
36 ~~If the agency chooses to consider a review a five-year review, it shall follow the procedures~~
37 ~~outlined in Subsection (3)] if the agency also meets the requirements described in Subsection
38 (3).~~

39 (3) At the conclusion of its review, and no later than the deadline described in
40 Subsection (1), the agency shall [file a notice of review on or before the anniversary date
41 indicating its intent to continue, amend, or repeal the rule] decide whether to continue, repeal,
42 or amend and continue the rule and comply with Subsections (3)(a) through (c), as applicable.

43 (a) If the agency continues the rule, [~~it shall file a statement which includes~~] the agency
44 shall file with the division a five-year notice of review and statement of continuation that
45 includes:

46 (i) a concise explanation of the particular statutory provisions under which the rule is
47 enacted and how these provisions authorize or require the rule;

48 (ii) a summary of written comments received during and since the last five-year review
49 of the rule from interested persons supporting or opposing the rule; and

50 (iii) a reasoned justification for continuation of the rule, including reasons why the
51 agency disagrees with comments in opposition to the rule, if any.

52 (b) If the agency repeals the rule, [~~it~~] the agency shall:

53 (i) comply with Section 63G-3-301[.]; and

54 (ii) in the rule analysis described in Section 63G-3-301, state that the repeal is the
55 result of the agency's five-year review under this section.

56 (c) If the agency amends and continues the rule, [~~it~~] the agency shall comply with the
57 requirements [~~of~~] described in Section 63G-3-301 and file [~~the statement~~] with the division the
58 five-year notice of review and statement of continuation required in Subsection (3)(a).

59 (4) ~~[(a)]~~ The division shall publish ~~[the]~~ a five-year notice of review and statement of
60 continuation in the bulletin no later than one year after the deadline described in Subsection
61 (1).

62 ~~[(b) The division may schedule the publication of agency notices and statements,~~
63 ~~provided that no notice and statement shall be published more than one year after the review~~
64 ~~deadline established under Subsection (1).]~~

65 (5) (a) The division shall make a reasonable effort to notify an agency [of rules] that a
66 rule is due for review at least 180 days [prior to the anniversary date] before the deadline
67 described in Subsection (1).

68 (b) The division's failure to comply with the requirement described in Subsection (5)(a)
69 does not exempt an agency from complying with any provision of this section.

70 (6) If an agency finds that it will not meet the deadline established in Subsection (1):

71 (a) before the deadline described in Subsection (1), the agency may file [an] one
72 extension [prior to the anniversary date] with the division indicating the reason for the
73 extension; and

74 (b) the division shall publish notice of the extension in [the next issue of] the bulletin
75 in accordance with the division's publication schedule established by division rule under
76 Section [63G-3-402](#).

77 (7) An extension permits the agency to ~~[file a notice no more than]~~ comply with the
78 requirements described in Subsections (1) and (3) up to 120 days after the [anniversary date]
79 deadline described in Subsection (1).

80 (8) (a) If an agency ~~[fails to file a notice of review or]~~ does not comply with the
81 requirements described in Subsection (3), and does not file an extension [on or before the date
82 specified in the notice mandated in Subsection (5), the division shall:] under Subsection (6),
83 the rule expires automatically on the day immediately after the date of the missed deadline.

84 (b) If an agency files an extension under Subsection (6) and does not comply with the
85 requirements described in Subsection (3) within 120 days after the day on which the deadline
86 described in Subsection (1) expires, the rule expires automatically on the day immediately after
87 the date of the missed deadline.

88 (9) After a rule expires under Subsection (8), the division shall:

89 (a) publish a notice in the next issue of the bulletin that the rule has expired and is no

90 longer enforceable;

91 (b) remove the rule from the code; and

92 (c) notify the agency that the rule has expired.

93 [~~9~~] (10) After a rule expires, an agency must comply with the requirements of Section

94 63G-3-301 to reenact the rule.

95 Section 2. **Effective date.**

96 This bill takes effect on July 1, 2014.

Legislative Review Note
as of 10-15-13 3:51 PM

Office of Legislative Research and General Counsel