

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 **General Description:**

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

10 **Highlighted Provisions:**

11 This bill:

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

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill takes effect on July 1, 2014.

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **63G-3-305**, as last amended by Laws of Utah 2012, Chapter 384

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

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

28 **63G-3-305. Agency review of rules -- Schedule of filings -- Limited exemption for**
29 **certain rules.**

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

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

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

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

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

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

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

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

51 (i) comply with Section 63G-3-301~~[-]; and~~

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

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

57 (4) ~~[(a)]~~ The division shall publish ~~[the]~~ a five-year notice of review and statement of of

58 continuation in the bulletin no later than one year after the deadline described in Subsection
59 (1).

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

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

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

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

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

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

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

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

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

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

87 (a) publish a notice in the next issue of the bulletin that the rule has expired and is no
88 longer enforceable;

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

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

91 ~~[(9)]~~ (10) After a rule expires, an agency must comply with the requirements of Section
92 [63G-3-301](#) to reenact the rule.

93 Section 2. **Effective date.**

94 This bill takes effect on July 1, 2014.