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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2724

03/06/2014 Authored by Nelson

The bill was read for the first time and referred to the Committee on Government Operations

A bill for an act

relating to state government; regulating agency rulemaking; amending Minnesota Statutes 2012, sections 3.842, subdivision 4a; 14.05, subdivisions 5, 6, by adding a subdivision; 14.07, subdivision 4; 14.08; 14.101, subdivision 1; 14.116; 14.125; 14.126, subdivision 2; 14.131; 14.14, subdivisions 1a, 2a; 14.15, subdivision 1; 14.16, subdivisions 1, 3; 14.22; 14.25; 14.26; 14.365; 14.388, subdivision 1; 14.389, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 14; repealing Minnesota Statutes 2012, sections 14.04; 14.101, subdivisions 3, 4; 14.14, subdivision 1b; 14.23; 14.3895.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2012, section 3.842, subdivision 4a, is amended to read:

Subd. 4a. **Objections to rules.** (a) For purposes of this subdivision, "committee" means the house of representatives policy committee or senate policy committee with primary jurisdiction over state governmental operations. The commission or a committee may object to a rule as provided in this subdivision. If the commission or a committee objects to all or some portion of a rule because the commission or committee considers it to be beyond the procedural or substantive authority delegated to the agency, including a proposed rule submitted under section 14.15, subdivision 4, or 14.26, subdivision 3, ~~paragraph (e) 6~~, the commission or committee may file that objection in the Office of the Secretary of State. The filed objection must contain a concise statement of the commission's or committee's reasons for its action. An objection to a proposed rule submitted by the commission or a committee under section 14.15, subdivision 4, or 14.26, subdivision 3, ~~paragraph (e) 6~~, may not be filed before the rule is adopted.

(b) The secretary of state shall affix to each objection a certification of the date and time of its filing and as soon after the objection is filed as practicable shall transmit a certified copy of it to the agency issuing the rule in question and to the revisor of statutes.

The secretary of state shall also maintain a permanent register open to public inspection of all objections by the commission or committee.

(c) The commission or committee shall publish and index an objection filed under this section in the next issue of the State Register. The revisor of statutes shall indicate the existence of the objection adjacent to the rule in question when that rule is published in Minnesota Rules.

(d) Within 14 days after the filing of an objection by the commission or committee to a rule, the issuing agency shall respond in writing to the objecting entity. After receipt of the response, the commission or committee may withdraw or modify its objection.

(e) After the filing of an objection by the commission or committee that is not subsequently withdrawn, the burden is upon the agency in any proceeding for judicial review or for enforcement of the rule to establish that the whole or portion of the rule objected to is valid.

(f) The failure of the commission or a committee to object to a rule is not an implied legislative authorization of its validity.

(g) In accordance with sections 14.44 and 14.45, the commission or a committee may petition for a declaratory judgment to determine the validity of a rule objected to by the commission or committee. The action must be started within two years after an objection is filed in the Office of the Secretary of State.

(h) The commission or a committee may intervene in litigation arising from agency action. For purposes of this paragraph, agency action means the whole or part of a rule, or the failure to issue a rule.

Sec. 2. Minnesota Statutes 2012, section 14.05, subdivision 5, is amended to read:

Subd. 5. **Review and repeal of rules.** By December 1 of each fourth year, beginning December 1, 2018, an agency must submit to the governor, the Legislative Coordinating Commission, the policy and funding committees and divisions with jurisdiction over the agency, and the revisor of statutes, a list of any rules or portions of rules that are obsolete, unnecessary, or duplicative of other state or federal statutes or rules. The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules. ~~By December 1, The agency must either report a timetable for repeal of the rule or portion of the rule, or must develop a bill for submission to the appropriate policy committee to repeal the obsolete, unnecessary, or duplicative rule. Such a bill must include proposed authorization to use the expedited procedures of section 14.389 to repeal or amend the obsolete, unnecessary, or duplicative rule.~~ A report submitted under this subdivision must be signed by the person in the agency

who is responsible for identifying and initiating repeal of obsolete rules. The report also must identify the status of any rules identified in the prior year's report as obsolete, unnecessary, or duplicative. If none of an agency's rules are obsolete, unnecessary, or duplicative, an agency's ~~December~~ report must state that conclusion.

Sec. 3. Minnesota Statutes 2012, section 14.05, subdivision 6, is amended to read:

Subd. 6. **Veto of adopted rules.** The governor may veto all or a severable portion of a rule of an agency as defined in section 14.02, subdivisions 2 and 4, by submitting notice of the veto to the State Register within 14 days of receiving a copy of the rule from the secretary of state under section 14.16, subdivision 3, 14.26, subdivision 3, or 14.386 or the agency under section 14.389, subdivision 3, ~~or section 14.3895~~. The veto is effective when the veto notice is submitted to the State Register. This authority applies only to the extent that the agency itself would have authority, through rulemaking, to take such action. If the governor vetoes a rule or portion of a rule under this section, the governor shall notify the chairs of the legislative committees having jurisdiction over the agency whose rule was vetoed.

Sec. 4. Minnesota Statutes 2012, section 14.05, is amended by adding a subdivision to read:

Subd. 7. **Electronic notices permitted.** If sections 14.05 to 14.389 require an agency to provide notice or documents to the public, the legislature, or another state agency, the agency may send the notice or document, or a link to the notice or document, using any reliable method of electronic transmission. An agency may file rule-related documents with the Office of Administrative Hearings by electronic transmission in the manner approved by the office.

Sec. 5. Minnesota Statutes 2012, section 14.07, subdivision 4, is amended to read:

Subd. 4. **Incorporations by reference.** (a) An agency may incorporate by reference into its rules the text from Minnesota Statutes, Minnesota Rules, United States Statutes at Large, United States Code, Laws of Minnesota, Code of Federal Regulations, the Federal Register, and other publications and documents which are determined by the revisor of statutes, to be conveniently available to the public. If the rule incorporates by reference other publications and documents, the rule must contain a statement of incorporation. The statement of incorporation by reference must include the words "incorporated by reference"; must identify by title, author, publisher, and, if applicable, date of publication of the standard or material to be incorporated; must state whether the material is subject

to frequent change; and must contain a statement of availability. When presented with a rule for certification pursuant to subdivision 2 and this subdivision, the revisor of statutes should indicate in the certification that the rule incorporates by reference text from other publications or documents. If the revisor certifies that the form of a rule is approved, that approval constitutes the revisor's finding that the publication or other document other than one listed by name in this subdivision, and which is incorporated by reference into the rules, is conveniently available to the public.

(b) For the purposes of paragraph (a), "conveniently available to the public" means available on the Internet without charge, or available for loan or inspection and copying to a person living anywhere in Minnesota through a statewide interlibrary loan system or in a public library without charge except for reasonable copying fees and mailing costs.

Sec. 6. Minnesota Statutes 2012, section 14.08, is amended to read:

14.08 APPROVAL OF RULE AND RULE FORM; COSTS.

(a) One copy of a rule adopted under section 14.26 must be submitted by the agency to the chief administrative law judge. The chief administrative law judge shall request from the revisor certified copies of the rule when it is submitted by the agency under section 14.26. Within five days after the request for certification of the rule is received by the revisor, excluding weekends and holidays, the revisor shall either return the rule with a certificate of approval of the form of the rule to the chief administrative law judge or notify the chief administrative law judge and the agency that the form of the rule will not be approved.

If the chief administrative law judge disapproves a rule, the agency may modify it and the agency shall submit one copy of the modified rule, approved as to form by the revisor, to the chief administrative law judge.

(b) One copy of a rule adopted after a public hearing must be submitted by the agency to the chief administrative law judge. The chief administrative law judge shall request from the revisor certified copies of the rule when it is submitted by the agency. Within five working days after receipt of the request, the revisor shall either return the rule with a certificate of approval to the chief administrative law judge or notify the chief administrative law judge and the agency that the form of the rule will not be approved.

(c) If the revisor refuses to approve the form of the rule, the revisor's notice must revise the rule so it is in the correct form.

(d) After the agency has notified the chief administrative law judge that it has adopted the rule, the chief administrative law judge shall promptly file four copies of the

5.1 adopted rule in the Office of the Secretary of State. The secretary of state shall forward
5.2 one copy of each rule filed to the agency, to the revisor of statutes, and to the governor.

5.3 ~~(d)~~ (e) The chief administrative law judge shall assess an agency for the actual cost
5.4 of processing rules under this section. Each agency shall include in its budget money to
5.5 pay the assessments. Receipts from the assessment must be deposited in the administrative
5.6 hearings account established in section 14.54.

5.7 Sec. 7. Minnesota Statutes 2012, section 14.101, subdivision 1, is amended to read:

5.8 Subdivision 1. **Required Preliminary notice.** ~~In addition to seeking information by~~
5.9 ~~other methods designed to reach persons or classes of persons who might be affected by~~
5.10 ~~the proposal, an agency, at least 60 days before publication of a notice of intent to adopt or~~
5.11 ~~a notice of hearing, shall~~ An agency may solicit comments from the public on the subject
5.12 matter of a possible rulemaking proposal under active consideration within the agency by
5.13 ~~causing notice to be published~~ publishing a notice in the State Register and a notice or link
5.14 to the State Register notice on the agency's Web site. ~~The notice must include a description~~
5.15 ~~of the subject matter of the proposal and the types of groups and individuals likely to be~~
5.16 ~~affected, and must indicate where, when, and how persons may comment on the proposal~~
5.17 ~~and whether and how drafts of any proposal may be obtained from the agency.~~

5.18 ~~This notice must be published within 60 days of the effective date of any new or~~
5.19 ~~amendatory law requiring rules to be adopted, amended, or repealed.~~

5.20 Sec. 8. **[14.105] RULE NOTIFICATION.**

5.21 Subdivision 1. **Rule notification list.** (a) Each agency shall maintain a list of all
5.22 persons who have registered with the agency for the purpose of receiving notice of rule
5.23 proceedings. A person may register to receive notice of rule proceedings by submitting
5.24 to the agency:

5.25 (1) the person's name and electronic mail address; or

5.26 (2) the person's name and United States mail address.

5.27 (b) The agency shall post information on its Web site describing the registration
5.28 process.

5.29 (c) The agency may inquire as to whether those persons on the list in paragraph
5.30 (a) wish to remain on it and may remove persons for whom there is a negative reply or
5.31 no reply within 60 days.

5.32 Subd. 2. **Additional notice.** (a) Each agency shall make reasonable efforts to notify
5.33 persons or classes of persons who may be significantly affected by the rule being proposed

by giving notice of its rule proceedings in newsletters, newspapers, or other publications, or through other means of communication.

(b) For each rulemaking, the agency shall describe its efforts to provide additional notification to persons or classes of persons who may be affected by the proposed rule or must explain why these efforts were not made.

Sec. 9. Minnesota Statutes 2012, section 14.116, is amended to read:

14.116 NOTICE TO LEGISLATURE.

(a) By January 15 each year, each agency must submit its rulemaking docket maintained under section 14.366, and the official rulemaking record required under section 14.365 for any rule adopted during the preceding calendar year, to the chairs and ranking minority members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rule.

(b) When an agency mails sends a notice of intent to adopt rules hearing under section 14.14 or a notice of intent to adopt rules under section 14.22, the agency must send a copy of the same notice and a copy of the statement of need and reasonableness to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rules and to the Legislative Coordinating Commission.

(c) ~~In addition, if the mailing of the notice is within two years of the effective date of the law granting the agency authority to adopt the proposed rules, the agency shall make reasonable efforts to send a copy of the notice and the statement to all sitting legislators who were chief house of representatives and senate authors of the bill granting the rulemaking authority. If the bill was amended to include this rulemaking authority, the agency shall make reasonable efforts to send the notice and the statement to the chief house of representatives and senate authors of the amendment granting rulemaking authority, rather than to the chief authors of the bill.~~

Sec. 10. Minnesota Statutes 2012, section 14.125, is amended to read:

14.125 TIME LIMIT ON AUTHORITY TO ADOPT, AMEND, OR REPEAL RULES.

An agency shall publish a ~~notice of intent to adopt rules or a notice of hearing under~~ section 14.14 or a notice of intent to adopt rules under section 14.22 within 18 months of the effective date of the law authorizing or requiring rules to be adopted, amended, or repealed. If the notice is not published within the time limit imposed by this section, the ~~authority for the rules expires. The agency shall not use other law in existence at the time~~

of the expiration of rulemaking authority under this section as authority to adopt, amend, or repeal these rules agency shall report to the Legislative Coordinating Commission, other appropriate committees of the legislature, and the governor its failure to publish a notice and the reasons for that failure.

~~An agency that publishes a notice of intent to adopt rules or a notice of hearing within the time limit specified in this section may subsequently amend or repeal the rules without additional legislative authorization.~~

Sec. 11. Minnesota Statutes 2012, section 14.126, subdivision 2, is amended to read:

Subd. 2. **Vote.** A committee vote under this section must be by a majority of the committee. The vote may occur any time after the publication of the rulemaking notice under section 14.14, subdivision 1a, 14.22, or 14.389, subdivision 2, ~~or 14.3895, subdivision 3~~, and before notice of adoption is published in the State Register under section 14.18, 14.27, or 14.389, subdivision 3, ~~or 14.3895, subdivision 3~~. A committee voting under this section shall notify the agency, the revisor of statutes, and the chief administrative law judge of the vote as soon as possible. The committee shall publish notice of the vote in the State Register as soon as possible.

Sec. 12. Minnesota Statutes 2012, section 14.131, is amended to read:

14.131 STATEMENT OF NEED AND REASONABLENESS.

~~By the date of the section 14.14, subdivision 1a, notice, the agency must prepare, review, and make available for public review a statement of the need for and reasonableness of the rule. The statement of need and reasonableness must be prepared under rules adopted by the chief administrative law judge and must include the following to the extent the agency, through reasonable effort, can ascertain this information:~~

~~(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;~~

~~(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;~~

~~(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule;~~

~~(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;~~

~~(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals;~~

~~(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals;~~

~~(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference; and~~

~~(8) an assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.~~

~~The statement must describe how the agency, in developing the rules, considered and implemented the legislative policy supporting performance-based regulatory systems set forth in section 14.002.~~

~~For purposes of clause (8), "cumulative effect" means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules. Cumulative effects can result from individually minor but collectively significant rules adopted over a period of time.~~

~~The statement must also describe the agency's efforts to provide additional notification under section 14.14, subdivision 1a, to persons or classes of persons who may be affected by the proposed rule or must explain why these efforts were not made.~~

~~The agency must consult with the commissioner of management and budget to help evaluate the fiscal impact and fiscal benefits of the proposed rule on units of local government.~~

By the date of the notice of hearing, the agency must prepare and make available for public review a statement of the need for and reasonableness of the rule. The statement of need and reasonableness must be prepared under rules adopted by the chief administrative law judge. The statement of need and reasonableness must include a citation to the most specific statutory authority for the rule and a general description of the need for and reasonableness of the proposed rule. It must also include the following to the extent the agency, through reasonable effort, can ascertain this information:

(1) a description of the persons or classifications of persons who probably will be affected by the proposed rule; and

(2) the probable costs of the rule to affected persons and the agency, and the probable benefits of adopting the rule.

9.1 The agency must send a copy of the statement of need and reasonableness to the
9.2 Legislative Reference Library no later than when the notice of hearing is mailed under
9.3 ~~section 14.14, subdivision 1a~~ sent.

9.4 Sec. 13. Minnesota Statutes 2012, section 14.14, subdivision 1a, is amended to read:

9.5 Subd. 1a. **Notice of rule hearing.** (a) ~~Each agency shall maintain a list of all persons~~
9.6 ~~who have registered with the agency for the purpose of receiving notice of rule proceedings.~~
9.7 ~~Persons may register to receive notice of rule proceedings by submitting to the agency:~~

9.8 (1) ~~their electronic mail address; or~~

9.9 (2) ~~their name and United States mail address.~~

9.10 ~~The agency may inquire as to whether those persons on the list wish to remain on it and~~
9.11 ~~may remove persons for whom there is a negative reply or no reply within 60 days. The~~
9.12 ~~agency shall, at least 30 days before the date set for the hearing, give notice of its intention~~
9.13 ~~to adopt~~ hold a hearing on the proposed rules by United States mail or electronic mail to
9.14 ~~all persons on its list~~ who have registered their names with the agency under section
9.15 14.105, and by publication in the State Register.

9.16 If a notice of intent to adopt rules has not been published under section 14.22, the
9.17 mailed notice must include either a copy of the proposed rule or an easily readable and
9.18 understandable description of its nature and effect and an announcement that a free
9.19 copy of the proposed rule is available on request from the agency. In addition, each
9.20 ~~agency shall make reasonable efforts to notify persons or classes of persons who may~~
9.21 ~~be significantly affected by the rule being proposed by giving notice of its intention in~~
9.22 ~~newsletters, newspapers, or other publications, or through other means of communication.~~

9.23 The notice in the State Register must include the proposed rule or an amended rule in the
9.24 form required by the revisor under section 14.07, together with an easily readable and
9.25 understandable summary of the overall purpose, nature, and effect of the proposed rule, a
9.26 citation to the most specific statutory authority for the proposed rule, a statement of the
9.27 place, date, and time of the public hearing, a statement that a free copy of the statement
9.28 of need and reasonableness may be requested from the agency, a statement that persons
9.29 may register with the agency for the purpose of receiving notice of rule proceedings ~~and~~
9.30 ~~notice that the agency intends to adopt a rule~~ and other information required by law or
9.31 rule. When an entire rule is proposed to be repealed, the agency need only publish that
9.32 fact, along with an easily readable and understandable summary of the overall nature of
9.33 the rules proposed for repeal, and a citation to the rule to be repealed.

(b) The chief administrative law judge may authorize an agency to omit from the notice of rule hearing the text of any proposed rule, the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient if:

(1) knowledge of the rule is likely to be important to only a small class of persons;

(2) the notice of rule hearing states that a free copy of the entire rule is available upon request to the agency; and

(3) the notice of rule hearing states in detail the specific subject matter of the omitted rule, cites the statutory authority for the proposed rule, and details the proposed rule's purpose and motivation.

Sec. 14. Minnesota Statutes 2012, section 14.14, subdivision 2a, is amended to read:

Subd. 2a. **Hearing procedure.** When a hearing is held on a proposed rule, it shall be conducted by an administrative law judge assigned by the chief administrative law judge. The administrative law judge shall ensure that all persons involved in the rule hearing are treated fairly and impartially. The agency shall submit into the record the jurisdictional documents, including the statement of need and reasonableness, comments and hearing requests received, and any written exhibits in support of the proposed rule. The agency may also present additional oral evidence. Interested persons may present written and oral evidence. The administrative law judge shall allow questioning of agency representatives or witnesses, or of interested persons making oral statements, in order to explain the purpose or intended operation of a proposed rule, or a suggested modification, or for other purposes if material to the evaluation or formulation of the proposed rule. The administrative law judge may limit repetitive or immaterial oral statements and questioning.

Sec. 15. Minnesota Statutes 2012, section 14.15, subdivision 1, is amended to read:

Subdivision 1. **Time of preparation.** After ~~allowing the hearing~~, there must be a comment period during which written material may be submitted and recorded in the hearing record. Submitted written material must be in response to the issues raised at the hearing or in the written comments and hearing requests admitted into evidence at the hearing. The comment period must be for at least five working business days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the administrative law judge. At the hearing or in written materials submitted to the administrative law judge no later than the end of the comment period, the agency shall respond to issues raised at the hearing and to written comments admitted into evidence at the hearing that are not in support of the proposed rule. After the comment period, the administrative law judge assigned to the hearing shall write a report as provided for in

11.1 section 14.50. ~~Before writing the report, the administrative law judge shall allow the~~
11.2 ~~agency and interested persons a rebuttal period of five working days after the comment~~
11.3 ~~period ends to respond in writing to any new information submitted.~~ During the comment
11.4 period and five-day rebuttal period, the agency may indicate in writing whether there are
11.5 amendments suggested by other persons which the agency is willing to adopt. ~~Additional~~
11.6 ~~evidence may not be submitted during this five-day rebuttal period.~~ The written responses
11.7 must be added to the rulemaking record.

11.8 Sec. 16. Minnesota Statutes 2012, section 14.16, subdivision 1, is amended to read:

11.9 Subdivision 1. **Review of modifications.** If the report of the administrative law
11.10 judge finds no defects, the agency may proceed to adopt the rule. After receipt of the
11.11 administrative law judge's report, if the agency makes any modifications to the rule,
11.12 it must return the rule, approved as to form by the revisor, to the chief administrative
11.13 law judge for a review of legality, including the issue of whether the rule as modified
11.14 is substantially different, as determined under section 14.05, subdivision 2, from the
11.15 rule as originally proposed. If the chief administrative law judge determines that the
11.16 modified rule is substantially different from the rule that was originally proposed, the chief
11.17 administrative law judge shall advise the agency of actions that will correct the defects.
11.18 The agency may not adopt the modified rule until the chief administrative law judge
11.19 determines that the defects have been corrected or, if applicable, that the agency has
11.20 satisfied the rule requirements for the adoption of a substantially different rule.

11.21 ~~The agency shall give notice to all persons who requested to be informed that the~~
11.22 ~~rule has been adopted and filed with the secretary of state. This notice must be given on~~
11.23 ~~the same day that the rule is filed.~~

11.24 Sec. 17. Minnesota Statutes 2012, section 14.16, subdivision 3, is amended to read:

11.25 Subd. 3. **Filing.** After the agency has ~~adopted~~ provided the chief administrative law
11.26 judge with a signed order adopting the rule, the agency chief administrative law judge
11.27 shall promptly file three four copies of it the adopted rule in the Office of the Secretary of
11.28 State. The secretary of state shall forward one copy of each rule filed to the agency, to
11.29 the revisor of statutes, and to the governor.

11.30 Sec. 18. Minnesota Statutes 2012, section 14.22, is amended to read:

11.31 **14.22 NOTICE OF PROPOSED ADOPTION OF INTENT TO ADOPT RULES.**

11.32 Subdivision 1. **Contents.** (a) ~~Unless an agency proceeds directly to a public hearing~~
11.33 ~~on a proposed rule and gives the notice prescribed in section 14.14, subdivision 1a, the~~

12.1 ~~agency shall give notice of its intention to adopt a rule without public hearing.~~ The agency
 12.2 shall give the notice required by this section, unless the agency gives notice of a hearing
 12.3 under section 14.14. The agency shall give notice ~~must be given~~ of its intention to adopt a
 12.4 rule by publication in the State Register and by United States mail or electronic mail to
 12.5 persons who have registered their names with the agency under section ~~14.14, subdivision~~
 12.6 ~~1a~~ 14.105. The mailed notice must include either a copy of the proposed rule or an
 12.7 easily readable and understandable ~~description~~ summary of its nature and effect and
 12.8 an announcement that a free copy of the proposed rule is available on request from the
 12.9 agency. ~~In addition, each agency shall make reasonable efforts to notify persons or classes~~
 12.10 ~~of persons who may be significantly affected by the rule by giving notice of its intention in~~
 12.11 ~~newsletters, newspapers, or other publications, or through other means of communication.~~
 12.12 The notice in the State Register must include the proposed rule or the amended rule in the
 12.13 form required by the revisor under section 14.07₂; an easily readable and understandable
 12.14 summary of the overall nature and effect of the proposed rule₂; a citation to the most
 12.15 specific statutory authority for the proposed rule₂; a statement that persons may register
 12.16 with the agency ~~for the purpose of receiving~~ to receive notice of rule proceedings and notice
 12.17 ~~that a rule has been submitted to the chief administrative law judge₂~~; and other information
 12.18 required by law or rule. By the date of the notice under this section, the agency must
 12.19 prepare and make available for public review a description of the overall purpose, nature,
 12.20 and effect of the proposed rulemaking, including a description of the persons or classes of
 12.21 persons who are likely to be affected by the proposed rulemaking. The description may be
 12.22 part of the notice in the State Register or may be a separate document. When an entire rule
 12.23 is proposed to be repealed, the notice need only state that fact, along with an easily readable
 12.24 and understandable summary of the overall nature of the ~~rules~~ rule proposed for repeal, and
 12.25 a citation to the rule to be repealed. The notice must include a statement advising the public:
 12.26 (1) that the public has 30 days in which to submit comment in support of or in
 12.27 opposition to the proposed rule and that comment is encouraged;
 12.28 (2) that each comment should identify the ~~portion~~ part and subpart, if any, of the
 12.29 proposed rule addressed, the reason for the comment, and any change proposed;
 12.30 (3) that the requester is encouraged to propose any change desired;
 12.31 ~~(3)~~ (4) that if ~~25~~ 100 or more persons submit a written request for a public hearing
 12.32 within the ~~30-day~~ comment period, a public hearing will be held and the agency will use
 12.33 the process under section 14.14;
 12.34 ~~(4)~~ (5) of the manner in which persons must request a public hearing on the proposed
 12.35 rule, including the requirements contained in section 14.25 relating to a written request
 12.36 for a public hearing; and

~~(5) of the requirements contained in section 14.25 relating to a written request for a public hearing, and that the requester is encouraged to propose any change desired;~~

~~(6) that the agency may modify the proposed rule may be modified if the modifications are supported by the data and views submitted; and.~~

~~(7) that if a hearing is not required, notice of the date of submission of the proposed rule to the chief administrative law judge for review will be mailed to any person requesting to receive the notice.~~

In connection with the statements required in clauses (1) and ~~(3)~~ (4), the notice must also include the date on which the ~~30-day~~ comment period ends.

(b) The chief administrative law judge may authorize an agency to omit from the notice of intent to adopt the text of any proposed rule, the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient if:

(1) knowledge of the rule is likely to be important to only a small class of persons;

(2) the notice of intent to adopt states that a free copy of the entire rule is available upon request to the agency; and

(3) the notice of intent to adopt states in detail the specific subject matter of the omitted rule, cites the statutory authority for the proposed rule, and details the proposed rule's purpose and motivation.

Subd. 2. **Dual notices.** The agency may, at the same time notice is given under subdivision 1, give notice of a public hearing and of its intention to proceed under sections 14.14 to 14.20, if one is required under section 14.25. The notice must include a statement advising the public of its intention to cancel the public hearing if ~~25~~ 100 or more persons do not request one. If a hearing is required, there must be at least ten calendar days between the last day for requesting a hearing and the day of the hearing.

Sec. 19. Minnesota Statutes 2012, section 14.25, is amended to read:

14.25 PUBLIC HEARING.

Subdivision 1. **Requests for hearing.** If, during the ~~30-day~~ period allowed for comment under section 14.22, ~~25~~ 100 or more persons submit to the agency a written request for a public hearing of the proposed rule, the agency shall proceed under the provisions of sections 14.14 to 14.20. The written request must include: (1) the name and address of the person requesting the public hearing; ~~and~~ (2) the portion or portions part or subpart, if any, of the rule to which the person objects ~~or a statement that the person opposes the entire rule. If not previously published under section 14.22, subdivision 2, a notice of the public hearing must be published in the State Register and mailed to those persons who submitted a written request for the public hearing. Unless the agency has~~

modified the proposed rule, the notice need not include the text of the proposed rule but only a citation to the State Register pages where the text appears; and (3) the reasons for the objection to each portion of the rule identified.

A written request for a public hearing that does not comply with the requirements of this section is invalid and may not be counted by the agency for purposes of determining whether a public hearing must be held.

Subd. 2. **Withdrawal of hearing requests.** If a request for a public hearing has been withdrawn so as to reduce the number of requests below ~~25~~ 100, the agency must give written notice of that fact to all persons who have requested the public hearing. No public hearing may be canceled by an agency within three working days of the hearing. The notice must explain why the request is being withdrawn, and must include a description of any action the agency has taken or will take that affected or may have affected the decision to withdraw the requests. The notice must also invite persons to submit written comments within five working days to the agency relating to the withdrawal. The notice and any written comments received by the agency is part of the rulemaking record submitted to the administrative law judge under section 14.14 or 14.26. The administrative law judge shall review the notice and any comments received and determine whether the withdrawal is consistent with section 14.001, clauses (2), (4), and (5).

This subdivision applies only to a withdrawal of a hearing request that affects whether a public hearing must be held and only if the agency has taken any action to obtain the withdrawal of the hearing request.

Sec. 20. Minnesota Statutes 2012, section 14.26, is amended to read:

14.26 ADOPTION OF PROPOSED RULE; SUBMISSION TO ADMINISTRATIVE LAW JUDGE.

Subdivision 1. **Submission.** If no hearing is required, the agency shall submit to an administrative law judge assigned by the chief administrative law judge the proposed rule and notice of intent to adopt as published, the rule as adopted, any written comments received by the agency, and ~~a statement of need and reasonableness for the rule. The agency shall give notice to all persons who requested to be informed that these materials have been submitted to the administrative law judge. This notice must be given on the same day that the record is submitted. If the proposed rule has been modified, the notice must state that fact, and must also state that a free copy of the proposed rule, as modified, is available upon request from the agency~~ the agency's response to those comments that were not in support of the proposed rule. The agency's response to comments should demonstrate how the relevant portions of the agency's proposed rule are needed and

15.1 reasonable. The rule and these materials must be submitted to the administrative law judge
15.2 within 180 days of the day that the comment period for the rule ~~is over~~ ends or the rule is
15.3 automatically withdrawn. The agency may not adopt the withdrawn rules without again
15.4 following the procedures of sections 14.05 to 14.28, ~~with the exception of section 14.101,~~
15.5 ~~if the noncompliance is approved by the chief administrative law judge.~~ The agency
15.6 shall report its failure to adopt the rules and the reasons for that failure to the Legislative
15.7 Coordinating Commission, other appropriate legislative committees, and the governor.

15.8 The agency shall send a copy of the summary of the overall purpose, nature, and
15.9 effect of the proposed rule and the agency's response to those comments that were not in
15.10 support of the proposed rule to the Legislative Reference Library when the proposed rule
15.11 is submitted to the administrative law judge.

15.12 ~~Subd. 2. **Resubmission.** Even if the 180-day period expires while the administrative~~
15.13 ~~law judge reviews the rule, if the administrative law judge rejects the rule, the agency may~~
15.14 ~~resubmit it after taking corrective action. The resubmission must occur within 30 days of~~
15.15 ~~when the agency receives written notice of the disapproval. If the rule is again disapproved,~~
15.16 ~~the rule is withdrawn. An agency may resubmit at any time before the expiration of the~~
15.17 ~~180-day period. If the agency withholds some of the proposed rule, it may not adopt the~~
15.18 ~~withheld portion without again following the procedures of sections 14.14 to 14.28.~~

15.19 Subd. 3. **Review.** ~~(a)~~ Within 14 days of receiving a submission under subdivision
15.20 1, the administrative law judge shall approve or disapprove the rule as to its legality and
15.21 its form to the extent that the form relates to legality, including the issues of whether the
15.22 rule if modified is substantially different, as determined under section 14.05, subdivision
15.23 2, from the rule as originally proposed, whether the agency has the authority to adopt
15.24 the rule, and whether the record demonstrates a rational basis for the need for and
15.25 reasonableness of the proposed rule. ~~If the rule is approved, the administrative law judge~~
15.26 ~~shall promptly file four copies of it in the Office of the Secretary of State. The secretary~~
15.27 ~~of state shall forward one copy of each rule to the revisor of statutes, one to the agency,~~
15.28 ~~and one to the governor.~~ If the agency received no comments on a specific provision of
15.29 the proposed rule during the comment period, other than comments in support of the
15.30 provision, then that specific provision of the rule is deemed needed and reasonable. If the
15.31 rule is disapproved, the administrative law judge shall state in writing the reasons for the
15.32 disapproval and make recommendations to overcome the defects.

15.33 Subd. 4. **Harmless error.** The administrative law judge shall disregard any error or
15.34 defect in the proceeding due to the agency's failure to satisfy any procedural requirements
15.35 imposed by law or rule if the administrative law judge finds:

16.1 (1) that the failure did not deprive any person or entity of an opportunity to
16.2 participate meaningfully in the rulemaking process; or

16.3 (2) that the agency has taken corrective action to cure the error or defect so that the
16.4 failure did not deprive any person or entity of an opportunity to participate meaningfully
16.5 in the rulemaking process.

16.6 Subd. 5. **Correction of defects.** (b) (a) The written disapproval must be submitted
16.7 to the chief administrative law judge for approval. If the chief administrative law judge
16.8 approves of the findings of the administrative law judge, the chief administrative law
16.9 judge shall send the statement of the reasons for disapproval of the rule to the agency,
16.10 the Legislative Coordinating Commission, the house of representatives and senate policy
16.11 committees with primary jurisdiction over state governmental operations, and the revisor
16.12 of statutes and advise the agency and the revisor of statutes of actions that will correct the
16.13 defects. The rule may not be filed in the Office of the Secretary of State, nor be published,
16.14 until the chief administrative law judge determines that the defects have been corrected
16.15 or, if applicable, that the agency has satisfied the rule requirements for the adoption of a
16.16 substantially different rule.

16.17 (b) The agency may resubmit the disapproved rule under paragraph (a) to the chief
16.18 administrative law judge after correcting the defects. If the 180-day period expires while
16.19 the administrative law judge is reviewing the rule, the agency may resubmit the rule within
16.20 30 days of the date the agency received written notice of disapproval. In all other cases,
16.21 the agency may resubmit the rule at any time before the expiration of the 180-day period in
16.22 subdivision 1. If the resubmitted rule is disapproved by the chief administrative law judge,
16.23 the rule is withdrawn. If the agency does not resubmit a portion of the rule, it may not adopt
16.24 that portion of the rule without again following the procedures of sections 14.14 to 14.28.

16.25 Subd. 6. **Need or reasonableness not established.** (c) If the chief administrative law
16.26 judge determines that the need for or reasonableness of the rule has not been established,
16.27 and if the agency does not elect to follow the suggested actions of the chief administrative
16.28 law judge to correct that defect, then the agency shall submit the proposed rule to the
16.29 Legislative Coordinating Commission and to the house of representatives and senate policy
16.30 committees with primary jurisdiction over state governmental operations for advice and
16.31 comment. The agency may not adopt the rule until it has received and considered the advice
16.32 of the commission and committees. However, the agency need not wait for advice for more
16.33 than 60 days after the commission and committees have received the agency's submission.

16.34 ~~(d) The administrative law judge shall disregard any error or defect in the proceeding~~
16.35 ~~due to the agency's failure to satisfy any procedural requirements imposed by law or~~
16.36 ~~rule if the administrative law judge finds:~~

~~(1) that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process; or~~

~~(2) that the agency has taken corrective action to cure the error or defect so that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process.~~

Subd. 7. **Filing.** If the rule is approved, the administrative law judge shall promptly file four copies of it in the Office of the Secretary of State. The secretary of state shall forward one copy of each rule to the revisor of statutes, one to the agency, and one to the governor.

Subd. 4 **8. Costs.** The Office of Administrative Hearings shall assess an agency for the actual cost of processing rules under this section. Each agency shall include in its budget money to pay the assessment. Receipts from the assessment must be deposited in the administrative hearings account created in section 14.54.

Sec. 21. Minnesota Statutes 2012, section 14.365, is amended to read:

14.365 OFFICIAL RULEMAKING RECORD.

Subdivision 1. **Definition.** The agency shall maintain the official rulemaking record for every rule adopted under sections 14.05 to 14.389. The record must be available for public inspection. The record required by this section constitutes the official and exclusive agency rulemaking record with respect to agency action on or judicial review of the rule. The record must contain The term "official rulemaking record" as used in this section means:

(1) copies of all publications in the State Register pertaining to the rule;

~~(2) all written petitions, and all requests, submissions, or comments received by the agency or the administrative law judge after publication of the notice of intent to adopt or the notice of hearing in the State Register pertaining to the rule;~~

(3) ~~(2)~~ the statement of need and reasonableness for the rule summary of the overall purpose, nature, and effect of the proposed rule and the agency's response to these comments that were not in support of the proposed rule;

~~(4) the official transcript of the hearing if one was held, or the tape recording of the hearing if a transcript was not prepared;~~

(3) the statement of need and reasonableness, if required;

~~(5) ~~(4)~~ the report of the administrative law judge, if any;~~

~~(6) ~~(5)~~ the rule in the form last submitted to the administrative law judge under sections 14.14 to 14.20 or first submitted to the administrative law judge under sections 14.22 to 14.28;~~

(7) (6) the administrative law judge's written statement of required modifications and of approval or disapproval by the chief administrative law judge, if any;

~~(8) any documents required by applicable rules of the Office of Administrative Hearings;~~

(9) (7) the agency's order adopting the rule;

~~(10) (8) the revisor's certificate approving the form of the rule; and~~

~~(11) (9) a copy of the adopted rule as filed with the secretary of state;~~

(10) all written petitions, and all requests, submissions, or comments received by the agency or the administrative law judge after publication of the notice of intent to adopt or the notice of hearing in the State Register pertaining to the rule;

(11) the official transcript of the hearing if one was held, or the recording of the hearing if a transcript was not prepared; and

(12) any other documents required by applicable rules of the Office of Administrative Hearings.

Subd. 2. **Duty to maintain official rulemaking record.** The revisor of statutes shall maintain permanently the documents described in subdivision 1, clauses (1) to (6), (8), and (9). The agency shall maintain for at least seven years the documents described in subdivision 1, clauses (7), and (10) to (12). The official rulemaking record must be available for public inspection. The official rulemaking record constitutes the official and exclusive agency rulemaking record with respect to agency action on or judicial review of the rule.

Sec. 22. Minnesota Statutes 2012, section 14.388, subdivision 1, is amended to read:

Subdivision 1. **Requirements.** If an agency for good cause finds that the rulemaking provisions of this chapter are unnecessary, impracticable, or contrary to the public interest when adopting, amending, or repealing a rule to:

(1) address a serious and immediate threat to the public health, safety, or welfare;

(2) comply with a court order or a requirement in federal law in a manner that does not allow for compliance with sections 14.14 to 14.28;

(3) incorporate specific changes set forth in applicable statutes when no interpretation of law is required; or

(4) make changes that do not alter the sense, meaning, or effect of a rule,

the agency may adopt, amend, or repeal the rule after satisfying the requirements of subdivision 2 and section 14.386, paragraph (a), clauses (1) to (4). The agency shall incorporate its findings and a brief statement of its supporting reasons in its order adopting, amending, or repealing the rule.

19.1 After considering the agency's statement and any comments received, the Office
19.2 of Administrative Hearings shall determine whether the agency has provided adequate
19.3 justification for its use of this section.

19.4 Rules adopted, amended, or repealed under ~~clauses~~ clause (1) ~~and (2)~~ are effective
19.5 for a period of two years from the date of publication of the rule in the State Register.

19.6 Rules adopted, amended, or repealed under clause (2), (3), or (4) are effective upon
19.7 publication in the State Register.

19.8 Sec. 23. Minnesota Statutes 2012, section 14.389, subdivision 1, is amended to read:

19.9 Subdivision 1. **Application.** This section applies when ~~a law requiring or~~
19.10 ~~authorizing rules to be adopted states that this section must or may be used to adopt the~~
19.11 ~~rules. When a law refers to this section, the process in this section is the only process an~~
19.12 ~~agency must follow for its rules to:~~

19.13 (1) a law requiring or authorizing rules to be adopted states that this section must or
19.14 may be used to adopt the rules;

19.15 (2) an agency is adopting or incorporating by reference a specific code or standard
19.16 referenced in a law requiring or authorizing rules to be adopted under this chapter;

19.17 (3) an agency is adopting or modifying a rule to conform to a change in federal law
19.18 or regulation that is binding on the state or state law or rule;

19.19 (4) an agency is adopting or incorporating by reference uniform or model law, act, or
19.20 regulation. This clause applies only if the model or uniform law, act, regulation, or other
19.21 standard being incorporated by reference or adopted has been approved by an organization
19.22 that is composed primarily of government entities; and

19.23 (5) an agency is repealing rules that are obsolete, unnecessary, or duplicative of other
19.24 state or federal statutes or rules.

19.25 Rules adopted under this section have the force and effect of law. Sections 14.19,
19.26 14.365, and 14.366 apply to rules adopted under this section.

19.27 Sec. 24. **REPEALER.**

19.28 Minnesota Statutes 2012, sections 14.04; 14.101, subdivisions 3 and 4; 14.14,
19.29 subdivision 1b; 14.23; and 14.3895, are repealed.

19.30 Sec. 25. **EFFECTIVE DATE; APPLICATION.**

19.31 This act is effective and applies to rules for which a preliminary comment under
19.32 Minnesota Statutes, section 14.101, a notice of intent to adopt rules under Minnesota

- 20.1 Statutes, section 14.22, or a notice of hearing under Minnesota Statutes, section 14.14, is
20.2 published in the State Register on or after that date.

14.04 AGENCY ORGANIZATION; GUIDEBOOK.

To assist interested persons dealing with it, each agency must, in a manner prescribed by the commissioner of administration, prepare a description of its organization, stating the general course and method of its operations and where and how the public may obtain information or make submissions or requests. The commissioner of administration must publish these descriptions at least once every four years commencing in 1981 in a guidebook of state agencies. Notice of the publication of the guidebook must be published in the State Register and given in newsletters, newspapers, or other publications, or through other means of communication. The commissioner must make an electronic version of the guidebook available on the Internet free of charge through the North Star information service.

14.101 ADVICE ON POSSIBLE RULES.

Subd. 3. **Effect of good faith compliance.** If an agency has made a good faith effort to comply with this section, a rule may not be invalidated on the grounds that the contents of this notice are insufficient or inaccurate.

Subd. 4. **Reduction of time period.** The chief administrative law judge shall reduce the time period before publication from 60 to 30 days for good cause.

14.14 HEARING ON RULE.

Subd. 1b. **Farming operations.** When a public hearing is conducted on a proposed rule that affects farming operations, at least one public hearing must be conducted in an agricultural area of the state.

14.23 STATEMENT OF NEED AND REASONABLENESS.

By the date of the section 14.22 notice, the agency shall prepare a statement of need and reasonableness, which must be available to the public. The statement of need and reasonableness must include the analysis required in section 14.131. The statement must also describe the agency's efforts to provide additional notification under section 14.22 to persons or classes of persons who may be affected by the proposed rules or must explain why these efforts were not made. For at least 30 days following the notice, the agency shall afford the public an opportunity to request a public hearing and to submit data and views on the proposed rule in writing.

The agency shall send a copy of the statement of need and reasonableness to the Legislative Reference Library when the notice of intent to adopt is mailed.

14.3895 PROCESS FOR REPEALING OBSOLETE RULES.

Subdivision 1. **Application.** An agency may use this section to repeal rules identified in the agency's annual obsolete rules report under section 14.05, subdivision 5, unless a law specifically requires another process or unless 25 requests are received under subdivision 4. Sections 14.19, 14.20, 14.365, and 14.366 apply to rules repealed under this section.

Subd. 2. **Notice plan; prior approval.** The agency shall draft a notice plan under which the agency will make reasonable efforts to notify persons or classes of persons who may be significantly affected by the rule repeal by giving notice of its intention in newsletters, newspapers, or other publications, or through other means of communication. Before publishing the notice in the State Register and implementing the notice plan, the agency shall obtain prior approval of the notice plan by the chief administrative law judge.

Subd. 3. **Notice and comment.** The agency shall publish notice of the proposed rule repeal in the State Register. The agency shall also mail the notice by United States mail or electronic mail to persons who have registered with the agency to receive mailed notices and to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rule repeal. The agency shall also give notice according to the notice plan approved under subdivision 2. The mailed notice must include either a copy of the rule proposed for repeal or a description of the nature and effect of the proposed rule repeal and a statement that a free copy is available from the agency upon request. The notice must include a statement that, if 25 or more people submit a written request, the agency will have to meet the requirements of sections 14.131 to 14.20 for rules adopted after a hearing or the requirements of sections 14.22 to 14.28 for rules adopted without a hearing, including the preparation of a

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statement of need and reasonableness and the opportunity for a hearing. The agency shall allow 60 days after publication in the State Register for comment on the proposed rule repeal.

Subd. 4. **Requests.** If 25 or more people submit a written request, the agency may repeal the rule only after complying with sections 14.131 to 14.20 or the requirements of sections 14.22 to 14.28. The requests must be in the manner specified in section 14.25.

Subd. 5. **Adoption.** If the final repeal is identical to the action originally published in the State Register, the agency shall publish a notice of repealers in the State Register. If the final action is different from the action originally published in the State Register, the agency shall publish a copy of the changes in the State Register. The agency shall also file a copy of the repealed rule with the governor. The repeal is effective after it has been subjected to all requirements described in this section or sections 14.131 to 14.20 or 14.22 to 14.28 and five working days after the notice of repeal is published in the State Register unless a later date is required by law or specified in the rule repeal proposal.

Subd. 6. **Legal review.** Before publication of the final rule in the State Register, the agency shall submit the rule to the chief administrative law judge in the Office of Administrative Hearings. The chief administrative law judge shall within 14 days approve or disapprove the rule as to its legality and its form to the extent the form relates to legality.