

CONFERENCE COMMITTEE REPORT ON H. F. No. 1725

A bill for an act
relating to state government; permitting electronic filing for hearings in contested
cases at the Office of Administrative Hearings; amending Minnesota Statutes
2014, section 14.58.

May 15, 2015

The Honorable Kurt L. Daudt
Speaker of the House of Representatives

The Honorable Sandra L. Pappas
President of the Senate

We, the undersigned conferees for H. F. No. 1725 report that we have agreed upon
the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 1725 be further
amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2014, section 14.05, is amended by adding a subdivision
to read:

Subd. 7. **Electronic documents permitted.** An agency may file rule-related
documents with the Office of Administrative Hearings by electronic transmission in the
manner approved by that office and the Office of the Revisor of Statutes by electronic
transmission in the manner approved by that office.

Sec. 2. Minnesota Statutes 2014, 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 paper copies or an electronic copy of the adopted rule in the Office of the Secretary of State. The secretary of state shall forward one copy of each rule filed to the agency, to the revisor of statutes, and to the governor.

~~(d)~~ (e) The chief administrative law judge 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 assessments. Receipts from the assessment must be deposited in the administrative hearings account established in section 14.54.

Sec. 3. Minnesota Statutes 2014, section 14.16, subdivision 3, is amended to read:

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

Sec. 4. Minnesota Statutes 2014, section 14.26, subdivision 3, is amended to read:

Subd. 3. **Review.** (a) Within 14 days, the administrative law judge shall approve or disapprove the rule as to its legality and its form to the extent that the form relates to legality, including the issues of whether the rule if modified is substantially different, as determined under section 14.05, subdivision 2, from the rule as originally proposed,

whether the agency has the authority to adopt the rule, and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rule. If the rule is approved, the administrative law judge shall promptly file four paper copies or an electronic copy of it the adopted rule 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. If the rule is disapproved, the administrative law judge shall state in writing the reasons for the disapproval and make recommendations to overcome the defects.

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

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

(d) The administrative law judge shall disregard any error or defect in the proceeding due to the agency's failure to satisfy any procedural requirements imposed by law or 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.

Sec. 5. Minnesota Statutes 2014, section 14.26, is amended by adding a subdivision to read:

Subd. 3a. **Filing.** If the rule is approved, the administrative law judge shall promptly file four paper copies or an electronic copy of the adopted rule in the Office of the Secretary of State. The secretary of state shall forward one copy of each rule to the revisor of statutes, to the agency, and to the governor.

Sec. 6. Minnesota Statutes 2014, section 14.386, is amended to read:

14.386 PROCEDURE FOR ADOPTING EXEMPT RULES; DURATION.

(a) A rule adopted, amended, or repealed by an agency, under a statute enacted after January 1, 1997, authorizing or requiring rules to be adopted but excluded from the rulemaking provisions of chapter 14 or from the definition of a rule, has the force and effect of law only if:

(1) the revisor of statutes approves the form of the rule by certificate;

(2) the person authorized to adopt the rule on behalf of the agency signs an order adopting the rule;

(3) the Office of Administrative Hearings approves the rule as to its legality within 14 days after the agency submits it for approval and files four paper copies or an electronic copy of the adopted rule with the revisor's certificate in the Office of the Secretary of State; and

(4) a copy is published by the agency in the State Register.

The secretary of state shall forward one copy of the rule to the governor.

A statute enacted after January 1, 1997, authorizing or requiring rules to be adopted but excluded from the rulemaking provisions of chapter 14 or from the definition of a rule does not excuse compliance with this section unless it makes specific reference to this section.

(b) A rule adopted under this section is effective for a period of two years from the date of publication of the rule in the State Register. The authority for the rule expires at the end of this two-year period.

(c) The chief administrative law judge shall adopt rules relating to the rule approval duties imposed by this section and section 14.388, including rules establishing standards for review.

(d) This section does not apply to:

(1) any group or rule listed in section 14.03, subdivisions 1 and 3, except as otherwise provided by law;

(2) game and fish rules of the commissioner of natural resources adopted under section 84.027, subdivision 13, or sections 97A.0451 to 97A.0459;

(3) experimental and special management waters designated by the commissioner of natural resources under sections 97C.001 and 97C.005;

(4) game refuges designated by the commissioner of natural resources under section 97A.085; or

(5) transaction fees established by the commissioner of natural resources for electronic or telephone sales of licenses, stamps, permits, registrations, or transfers under section 84.027, subdivision 15, paragraph (a), clause (3).

(e) If a statute provides that a rule is exempt from chapter 14, and section 14.386 does not apply to the rule, the rule has the force of law unless the context of the statute delegating the rulemaking authority makes clear that the rule does not have force of law.

Sec. 7. Minnesota Statutes 2014, section 14.58, is amended to read:

14.58 NOTICE AND HEARING.

In any contested case all parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall state the time, place and issues involved, but if, by reason of the nature of the case, the issues cannot be fully stated in advance of the hearing, or if subsequent amendment of the issues is necessary, they shall be fully stated as soon as practicable, and opportunity shall be afforded all parties to present evidence and argument with respect thereto. Prior to assignment of a case to an administrative law judge as provided by sections 14.48 to 14.56, all papers shall be filed with the agency. Subsequent to assignment of the case, the agency shall certify the official record to the Office of Administrative Hearings, and thereafter, all papers shall be filed with that office. The agency and any other party to a contested case may file all necessary notices, documents, and other necessary information with the Office of Administrative Hearings by any reliable method of electronic transmission in the manner approved by that office. The Office of Administrative Hearings shall maintain the official record which shall include subsequent filings, testimony and exhibits. All filings are deemed effective upon receipt. The record shall contain a written transcript of the hearing only if preparation of a transcript is requested by the agency, a party, or the chief administrative law judge. The agency or party requesting a transcript shall bear the cost of preparation. When the chief administrative law judge requests preparation of the transcript, the agency shall bear the cost of preparation. Upon issuance of the administrative law judge's report, the official record shall be certified to the agency.

6.1 Sec. 8. **EFFECTIVE DATE; APPLICATION.**

6.2 (a) Sections 1 to 6 are effective January 1, 2016, and apply to a rule for which a notice
6.3 of intent to adopt a rule without a public hearing, a notice of hearing, a dual notice, or a
6.4 notice of the proposed rule repeal is published in the State Register on or after that date.

6.5 (b) Section 7 is effective January 1, 2016, and applies to a contested case initiated on
6.6 or after that date."

6.7 Delete the title and insert:

6.8 "A bill for an act
6.9 relating to state government; permitting electronic filing for hearings in contested
6.10 cases at the Office of Administrative Hearings; permitting the electronic transfer
6.11 of certain rulemaking documents; amending Minnesota Statutes 2014, sections
6.12 14.05, by adding a subdivision; 14.08; 14.16, subdivision 3; 14.26, subdivision
6.13 3, by adding a subdivision; 14.386; 14.58."

7.1 We request the adoption of this report and repassage of the bill.

7.2 House Conferees:

7.3
7.4	Drew Christensen	Ron Kresha

7.5
7.6	Jeanne Poppe

7.7 Senate Conferees:

7.8
7.9	Melissa H. Wiklund	Bev Scalze

7.10
7.11	Bruce D. Anderson