

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

04/01/2014 Adoption of Report: Amended and Placed on the General Register

Read Second Time

A bill for an act

relating to state government; regulating agency rulemaking; amending Minnesota Statutes 2012, sections 3.842, subdivision 4a; 14.05, subdivision 6, by adding subdivisions; 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; 14.16, subdivision 3; 14.22; 14.23; 14.25; 14.26; 14.388, subdivision 1; 14.389; proposing coding for new law in Minnesota Statutes, chapter 14; repealing Minnesota Statutes 2012, sections 14.04; 14.05, subdivision 5; 14.14, subdivision 1b; 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, is amended by adding a subdivision to read:

Subd. 5a. **Review and repeal of rules.** By December 1 of each odd-numbered year, beginning December 1, 2015, 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. 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. A report submitted under this subdivision must be signed by the person in the agency who is responsible for identifying and initiating repeal of

3.1 obsolete rules. The report also must identify the status of any rules identified in the prior
3.2 report as obsolete, unnecessary, or duplicative. If none of an agency's rules are obsolete,
3.3 unnecessary, or duplicative, an agency's report must state that conclusion.

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

3.5 Subd. 6. **Veto of adopted rules.** The governor may veto all or a severable portion
3.6 of a rule of an agency as defined in section 14.02, subdivisions 2 and 4, by submitting
3.7 notice of the veto to the State Register within 14 days of receiving a copy of the rule
3.8 from the secretary of state under section 14.16, subdivision 3, 14.26, subdivision 3, or
3.9 14.386 or the agency under section 14.389, subdivision 3, ~~or section 14.3895~~. The veto is
3.10 effective when the veto notice is submitted to the State Register. This authority applies
3.11 only to the extent that the agency itself would have authority, through rulemaking, to
3.12 take such action. If the governor vetoes a rule or portion of a rule under this section, the
3.13 governor shall notify the chairs of the legislative committees having jurisdiction over the
3.14 agency whose rule was vetoed.

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

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

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

3.25 Subd. 4. **Incorporations by reference.** (a) An agency may incorporate by reference
3.26 into its rules the text from Minnesota Statutes, Minnesota Rules, United States Statutes at
3.27 Large, United States Code, Laws of Minnesota, Code of Federal Regulations, the Federal
3.28 Register, and other publications and documents which are determined by the revisor of
3.29 statutes, to be conveniently available to the public. If the rule incorporates by reference
3.30 other publications and documents, the rule must contain a statement of incorporation.
3.31 The statement of incorporation by reference must include the words "incorporated by
3.32 reference"; must identify by title, author, publisher, and, if applicable, date of publication
3.33 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 paper copies or an electronic copy of the adopted rule in the Office of the Secretary of State. The

5.1 secretary of state shall forward one copy of each rule filed to the agency, to the revisor
5.2 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 notice.** In addition to seeking information by other
5.9 methods designed to reach persons or classes of persons who might be affected by the
5.10 proposal, an agency, at least 60 days before publication of a notice of intent to adopt or
5.11 a notice of hearing, shall solicit comments from the public on the subject matter of a
5.12 possible rulemaking proposal under active consideration within the agency by causing
5.13 notice to be published in the State Register. The notice must include a description of the
5.14 subject matter of the proposal and the types of groups and individuals likely to be affected,
5.15 and must indicate where, when, and how persons may comment on the proposal and
5.16 whether and how drafts of any proposal may be obtained from the agency.

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

5.19 An agency intending to adopt an expedited rule under section 14.389 is exempt from
5.20 the requirements of this section.

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

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

5.26 (1) the person's electronic mail address; or

5.27 (2) the person's name and United States mail address, along with a request to receive
5.28 copies of the notices by mail.

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

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

6.1 Subd. 2. **Additional notice.** (a) Each agency shall make reasonable efforts to notify
6.2 persons or classes of persons who may be significantly affected by the rule being proposed
6.3 by giving notice of its rule proceedings in newsletters, newspapers, or other publications,
6.4 or through other means of communication.

6.5 (b) For each rulemaking, the agency shall develop an additional notice plan
6.6 describing its efforts to provide additional notification to persons or classes of persons
6.7 who may be affected by the proposed rule or must explain why these efforts were not
6.8 made. The additional notice plan must be submitted to the administrative law judge with
6.9 the other submissions required by section 14.14, subdivision 2a, or 14.26. The agency
6.10 also may seek prior approval of the additional notice plan under the rules of the Office of
6.11 Administrative Hearings.

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

6.13 **14.116 NOTICE TO LEGISLATURE.**

6.14 (a) By January 15 each year, each agency must submit its current rulemaking docket
6.15 maintained under section 14.366, ~~and the official rulemaking record required under section~~
6.16 ~~14.365 for any rule adopted during the preceding calendar year,~~ to the chairs and ranking
6.17 minority members of the legislative policy and budget committees with jurisdiction over
6.18 the subject matter of the proposed rule.

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

6.25 (c) ~~In addition, if the mailing of the notice is within two years of the effective date~~
6.26 ~~of the law granting the agency authority to adopt the proposed rules, the agency shall~~
6.27 ~~make reasonable efforts to send a copy of the notice and the statement to all sitting~~
6.28 ~~legislators who were chief house of representatives and senate authors of the bill granting~~
6.29 ~~the rulemaking authority. If the bill was amended to include this rulemaking authority,~~
6.30 ~~the agency shall make reasonable efforts to send the notice and the statement to the chief~~
6.31 ~~house of representatives and senate authors of the amendment granting rulemaking~~
6.32 ~~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 a citation to the most specific statutory authority for the rule and 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;~~

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

(2) the probable costs of the rule to affected persons and the agency, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals, and the probable benefits of adopting the rule;

~~(7) (3)~~ 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) (4)~~ 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) (4)~~, "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. The agency must send a copy of the statement of need and reasonableness to the Legislative Reference Library no later than when the notice of hearing is mailed ~~under section 14.14, subdivision 1a sent.~~

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

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

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

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

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

~~The mailed notice must include either a copy of the proposed rule or an easily readable and understandable description of its nature and effect and an announcement that a free copy of the proposed rule is available on request from the agency. In addition, each agency shall make reasonable efforts to notify persons or classes of persons who may be significantly affected by the rule being proposed by giving notice of its intention in newsletters, newspapers, or other publications, or through other means of communication.~~

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

10.1 only publish that fact, along with an easily readable and understandable summary of the
10.2 overall nature of the rules proposed for repeal, and a citation to the rule to be repealed.

10.3 The mailed notice of hearing must be the same as the notice published in the State
10.4 Register, except that the mailed notice may omit the text of the proposed rule.

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

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

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

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

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

10.15 Subd. 2a. **Hearing procedure.** When a hearing is held on a proposed rule, it shall
10.16 be conducted by an administrative law judge assigned by the chief administrative law
10.17 judge. The administrative law judge shall ensure that all persons involved in the rule
10.18 hearing are treated fairly and impartially. The agency shall submit into the record the
10.19 jurisdictional documents, including the statement of need and reasonableness, comments
10.20 and hearing requests received, and any written exhibits in support of the proposed rule.

10.21 The agency may also present additional oral evidence. Interested persons may present
10.22 written and oral evidence. The administrative law judge shall allow questioning of agency
10.23 representatives or witnesses, or of interested persons making oral statements, in order to
10.24 explain the purpose or intended operation of a proposed rule, or a suggested modification,
10.25 or for other purposes if material to the evaluation or formulation of the proposed rule. The
10.26 administrative law judge may limit repetitive or immaterial oral statements and questioning.

10.27 Sec. 15. Minnesota Statutes 2012, section 14.16, subdivision 3, is amended to read:

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

Sec. 16. Minnesota Statutes 2012, section 14.22, is amended to read:

14.22 NOTICE OF PROPOSED ADOPTION OF RULES.

Subdivision 1. **Contents.** (a) ~~Unless an agency proceeds directly to a public hearing on a proposed rule and gives the notice prescribed in section 14.14, subdivision 1a, the agency shall give notice of its intention to adopt a rule without public hearing. The agency shall give the notice required by this section, unless the agency gives notice of a hearing under section 14.14. The agency shall give notice must be given of its intention to adopt a rule by publication in the State Register and by United States mail or electronic mail to persons who have registered their names with the agency under section 14.14, subdivision 1a 14.105. The mailed notice must include either a copy of the proposed rule or an easily readable and understandable description of its nature and effect and an announcement that a free copy of the proposed rule is available on request from the agency. In addition, each agency shall make reasonable efforts to notify persons or classes of persons who may be significantly affected by the rule by giving notice of its intention in newsletters, newspapers, or other publications, or through other means of communication. The notice in the State Register must include the proposed rule or the amended rule in the form required by the revisor under section 14.07; an easily readable and understandable summary of the overall nature and effect of the proposed rule; a citation to the most specific statutory authority for the proposed rule; a statement that persons may register with the agency for the purpose of receiving to receive notice of rule proceedings and notice that a rule has been submitted to the chief administrative law judge; and other information required by law or rule. When an entire rule is proposed to be repealed, the notice need only state that fact, along with an easily readable and understandable summary of the overall nature of the rules rule proposed for repeal, and a citation to the rule to be repealed. The notice must include a statement advising the public:~~

(1) that the public has at least 30 days in which to submit comment in support of or in opposition to the proposed rule and that comment is encouraged;

(2) that each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed;

(3) that the requester is encouraged to propose any change desired;

~~(3)~~ (4) that if ~~25~~ 50 or more persons submit a written request for a public hearing within the ~~30-day~~ comment period, a public hearing will be held and the agency will use the process under section 14.14;

~~(4)~~ (5) of the manner in which persons must request a public hearing on the proposed rule, including the requirements contained in section 14.25 relating to a written request 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. The mailed notice of intent to adopt a rule must be the same as the notice published in the State Register, except that the mailed notice may omit the text of the proposed rule if it includes an announcement of where a copy of the proposed rule may be obtained.

(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~~ 50 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. 17. Minnesota Statutes 2012, section 14.23, is amended to read:

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 information 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~~

13.1 ~~notice, the agency shall afford the public an opportunity to request a public hearing and~~
13.2 ~~to submit data and views on the proposed rule in writing.~~

13.3 The agency shall send a copy of the statement of need and reasonableness to the
13.4 Legislative Reference Library no later than when the notice of intent to adopt is ~~mailed~~ sent.

13.5 Sec. 18. Minnesota Statutes 2012, section 14.25, is amended to read:

13.6 **14.25 PUBLIC HEARING.**

13.7 Subdivision 1. **Requests for hearing.** If, during the ~~30-day~~ period allowed for
13.8 comment under section 14.22, 25 50 or more persons submit to the agency a written request
13.9 for a public hearing of the proposed rule, the agency shall proceed under the provisions of
13.10 sections 14.14 to 14.20. The written request must include: (1) the name and address of the
13.11 person requesting the public hearing; ~~and~~ (2) the portion or portions of the rule to which
13.12 the person objects ~~or a statement that the person opposes the entire rule. If not previously~~
13.13 ~~published under section 14.22, subdivision 2, a notice of the public hearing must be~~
13.14 ~~published in the State Register and mailed to those persons who submitted a written request~~
13.15 ~~for the public hearing. Unless the agency has modified the proposed rule, the notice need~~
13.16 ~~not include the text of the proposed rule but only a citation to the State Register pages where~~
13.17 ~~the text appears; and (3) the reasons for the objection to each portion of the rule identified.~~

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

13.21 Subd. 2. **Withdrawal of hearing requests.** If a request for a public hearing has
13.22 been withdrawn so as to reduce the number of requests below ~~25~~ 50, the agency must give
13.23 written notice of that fact to all persons who have requested the public hearing. No public
13.24 hearing may be canceled by an agency within three working days of the hearing. The
13.25 notice must explain why the request is being withdrawn, and must include a description of
13.26 any action the agency has taken or will take that affected or may have affected the decision
13.27 to withdraw the requests. The notice must also invite persons to submit written comments
13.28 within five working days to the agency relating to the withdrawal. The notice and any
13.29 written comments received by the agency is part of the rulemaking record submitted to the
13.30 administrative law judge under section 14.14 or 14.26. The administrative law judge shall
13.31 review the notice and any comments received and determine whether the withdrawal is
13.32 consistent with section 14.001, clauses (2), (4), and (5).

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

14.1 Sec. 19. Minnesota Statutes 2012, section 14.26, is amended to read:

14.2 **14.26 ADOPTION OF PROPOSED RULE; SUBMISSION TO**
14.3 **ADMINISTRATIVE LAW JUDGE.**

14.4 Subdivision 1. **Submission.** If no hearing is required, the agency shall submit to an
14.5 administrative law judge assigned by the chief administrative law judge the proposed rule
14.6 and notice as published, the rule as adopted, any written comments received by the agency,
14.7 and a statement of need and reasonableness for the rule. The agency shall give notice to
14.8 all persons who requested to be informed that these materials have been submitted to the
14.9 administrative law judge. This notice must be given on the same day that the record is
14.10 submitted. If the proposed rule has been modified, the notice must state that fact, and must
14.11 also state that a free copy of the proposed rule, as modified, is available upon request from
14.12 the agency. The rule and these materials must be submitted to the administrative law judge
14.13 within 180 days of the day that the comment period for the rule is over or the rule is
14.14 automatically withdrawn. The agency may not adopt the withdrawn rules without again
14.15 following the procedures of sections 14.05 to 14.28, with the exception of section 14.101,
14.16 if the noncompliance is approved by the chief administrative law judge. The agency
14.17 shall report its failure to adopt the rules and the reasons for that failure to the Legislative
14.18 Coordinating Commission, other appropriate legislative committees, and the governor.

14.19 ~~Subd. 2. **Resubmission.** Even if the 180-day period expires while the administrative~~
14.20 ~~law judge reviews the rule, if the administrative law judge rejects the rule, the agency may~~
14.21 ~~resubmit it after taking corrective action. The resubmission must occur within 30 days of~~
14.22 ~~when the agency receives written notice of the disapproval. If the rule is again disapproved,~~
14.23 ~~the rule is withdrawn. An agency may resubmit at any time before the expiration of the~~
14.24 ~~180-day period. If the agency withholds some of the proposed rule, it may not adopt the~~
14.25 ~~withheld portion without again following the procedures of sections 14.14 to 14.28.~~

14.26 Subd. 3. **Review.** (a) Within 14 days of receiving a submission under subdivision 1,
14.27 the administrative law judge shall approve or disapprove the rule as to its legality and its
14.28 form to the extent that the form relates to legality, including the issues of whether the rule
14.29 if modified is substantially different, as determined under section 14.05, subdivision 2,
14.30 from the rule as originally proposed, whether the agency has the authority to adopt the rule,
14.31 and whether the record demonstrates a rational basis for the need for and reasonableness
14.32 of the proposed rule. ~~If the rule is approved, the administrative law judge shall promptly~~
14.33 ~~file four copies of it in the Office of the Secretary of State. The secretary of state shall~~
14.34 ~~forward one copy of each rule to the revisor of statutes, one to the agency, and one to the~~
14.35 ~~governor.~~ If the rule is disapproved, the administrative law judge shall state in writing the
14.36 reasons for the disapproval and make recommendations to overcome the defects.

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

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

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

15.9 Subd. 5. **Correction of defects.** ~~(b)~~ (a) The written disapproval must be submitted
15.10 to the chief administrative law judge for approval. If the chief administrative law judge
15.11 approves of the findings of the administrative law judge, the chief administrative law
15.12 judge shall send the statement of the reasons for disapproval of the rule to the agency,
15.13 the Legislative Coordinating Commission, the house of representatives and senate policy
15.14 committees with primary jurisdiction over state governmental operations, and the revisor
15.15 of statutes and advise the agency and the revisor of statutes of actions that will correct the
15.16 defects. The rule may not be filed in the Office of the Secretary of State, nor be published,
15.17 until the chief administrative law judge determines that the defects have been corrected
15.18 or, if applicable, that the agency has satisfied the rule requirements for the adoption of a
15.19 substantially different rule.

15.20 (b) The agency may resubmit the disapproved rule under paragraph (a) to the chief
15.21 administrative law judge after correcting the defects. If the 180-day period expires while
15.22 the chief administrative law judge is reviewing the rule, the agency may resubmit the rule
15.23 within 30 days of the date the agency received written notice of disapproval. In all other
15.24 cases, the agency may resubmit the rule at any time before the expiration of the 180-day
15.25 period in subdivision 1. If the resubmitted rule is disapproved by the chief administrative
15.26 law judge, the rule is withdrawn. If the agency does not resubmit a portion of the rule, it
15.27 may not adopt that portion of the rule without again following the procedures of sections
15.28 14.14 to 14.28.

15.29 Subd. 6. **Need or reasonableness not established.** ~~(e)~~ If the chief administrative law
15.30 judge determines that the need for or reasonableness of the rule has not been established,
15.31 and if the agency does not elect to follow the suggested actions of the chief administrative
15.32 law judge to correct that defect, then the agency shall submit the proposed rule to the
15.33 Legislative Coordinating Commission and to the house of representatives and senate policy
15.34 committees with primary jurisdiction over state governmental operations for advice and
15.35 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.~~

Subd. 7. **Filing.** If the rule is approved, the administrative law judge shall promptly file four paper copies or an electronic copy 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. 20. 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.

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

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

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

17.5 Sec. 21. Minnesota Statutes 2012, section 14.389, is amended to read:

17.6 **14.389 EXPEDITED PROCESS.**

17.7 Subdivision 1. **Application.** (a) This section applies when a law requiring or
17.8 authorizing rules to be adopted states that this section must or may be used to adopt the
17.9 rules. When a law refers to this section, the process in this section is the only process an
17.10 agency must follow for its rules to:

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

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

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

17.17 (4) an agency is repealing rules that are obsolete, unnecessary, or duplicative of other
17.18 state or federal statutes or rules.

17.19 (b) An agency may also use this process to adopt rules it determines are
17.20 noncontroversial if there is other law authorizing the rules.

17.21 (c) Rules adopted under this section have the force and effect of law. Sections 14.19
17.22 and 14.366 apply to rules adopted under this section.

17.23 Subd. 2. **Notice and comment.** (a) The agency must publish notice of the proposed
17.24 rule in the State Register and must mail the notice by United States mail or electronic mail
17.25 to persons who have registered with the agency to receive mailed notices.

17.26 (b) The notice for rules adopted under the authority granted in subdivision 1,
17.27 paragraph (b), must include a statement that if 50 or more persons request that the agency
17.28 follow all of the requirements for rules adopted with or without a public hearing, as
17.29 appropriate, except section 14.101, the agency shall adopt the rule only after complying
17.30 with all of the requirements for rules adopted with or without a public hearing, as
17.31 appropriate, except section 14.101. The notice must also include an easily readable and
17.32 understandable description of the purpose, nature, and effect of the proposed rules,
17.33 including a description of the persons or classes of persons who are likely to be affected
17.34 by the proposed rulemaking. A hearing request made pursuant to this subdivision must
17.35 be in writing and include: (1) the name and address of the person requesting the agency

18.1 to adopt the rule in compliance with the procedures under sections 14.05 to 14.28; and
18.2 (2) the portion or portions of the rule to which the person objects or a statement that
18.3 the person is opposed to the entire rule.

18.4 (c) The mailed notice must include either a copy of the proposed rule or a description
18.5 of the nature and effect of the proposed rule and a statement that a free copy is available
18.6 from the agency upon request.

18.7 (d) The notice in the State Register must include the proposed rule or the amended
18.8 rule in the form required by the revisor under section 14.07, an easily readable and
18.9 understandable summary of the overall nature and effect of the proposed rule, and a
18.10 citation to the most specific statutory authority for the rule, including authority for the rule
18.11 to be adopted under the process in this section.

18.12 (e) The agency must allow 30 days after publication in the State Register for
18.13 comment on the rule.

18.14 Subd. 3. **Adoption.** The agency may modify a proposed rule if the modifications
18.15 do not result in a substantially different rule, as defined in section 14.05, subdivision 2,
18.16 paragraphs (b) and (c). If the final rule is identical to the rule originally published in the
18.17 State Register, the agency must publish a notice of adoption in the State Register. If the
18.18 final rule is different from the rule originally published in the State Register, the agency
18.19 must publish a copy of the changes in the State Register. The agency must also file a copy
18.20 of the rule with the governor. The rule is effective upon publication in the State Register.

18.21 Subd. 4. **Legal review.** Before publication of the final rule in the State Register,
18.22 the agency must submit the rule and its order adopting, amending, or repealing the rule
18.23 to an administrative law judge in the Office of Administrative Hearings. The agency's
18.24 order must include the agency's findings and a brief statement summarizing its reasons for
18.25 using this expedited process. The administrative law judge shall make a determination
18.26 that the agency's submission establishes the need for and reasonableness of the proposed
18.27 rules and fulfills any relevant substantive or procedural requirements imposed on the
18.28 agency by law or rule. This shall not be construed to mean that the agency must submit a
18.29 statement of need and reasonableness as required in section 14.131. The administrative
18.30 law judge shall within 14 days approve or disapprove the rule as to its legality and its form
18.31 to the extent the form relates to legality.

18.32 Subd. 5. **Option.** A law authorizing or requiring rules to be adopted under this
18.33 section may refer specifically to this subdivision. If the law contains a specific reference to
18.34 this subdivision, as opposed to a general reference to this section:

(1) the notice required in subdivision 2 must include a statement that a public hearing will be held if 100 or more people request a hearing. The request must be in the manner specified in section 14.25; and

(2) if 100 or more people submit a written request for a public hearing, the agency may adopt the rule only after complying with all of the requirements of chapter 14 for rules adopted after a public hearing, except for section 14.101.

Subd. 6. **Additional notice plan.** An agency proposing expedited rules under subdivision 1 must give notice by methods designed to reach persons or classes of persons who might be affected by the proposal before publication of the notice required by subdivision 2 in the State Register. The agency must submit its additional notice plan to the Office of Administrative Hearings and receive approval of the plan before publication. The request for approval must include a description of the proposed additional notice plan; a description or a draft of the proposed rules; and an explanation of why the agency believes that its additional notice plan provides sufficient notice. The administrative law judge must approve or disapprove the plan within five working days after the office receives it.

Sec. 22. **REPEALER.**

Minnesota Statutes 2012, sections 14.04; 14.05, subdivision 5; 14.14, subdivision 1b; and 14.3895, are repealed.

Sec. 23. **EFFECTIVE DATE; APPLICATION.**

This act is effective August 1, 2014, and applies to rules for which a notice of hearing under Minnesota Statutes, section 14.14; a notice of intent to adopt under Minnesota Statutes, section 14.22; or a dual notice under Minnesota Statutes, section 14.225, is 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.

14.05 GENERAL AUTHORITY.

Subd. 5. **Review and repeal of rules.** By December 1 of each year, 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 1 report must state that conclusion.

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.

14.3895 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 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.

APPENDIX

Repealed Minnesota Statutes: H2724-1

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.