SENATE STATE OF MINNESOTA EIGHTY-SEVENTH LEGISLATURE

S.F. No. 1922

(SENATE AUTHORS: PEDERSON, Bakk, Nienow, Benson and Tomassoni)

DATE	D-PG	OFFICIAL STATUS
02/16/2012	3835	Introduction and first reading
		Referred to State Government Innovation and Veterans
02/20/2012	3861	Author added Benson
02/23/2012	3943	Author stricken Rest
03/01/2012	3976a	Comm report: To pass as amended and re-refer to Finance
03/08/2012	4247	Author added Tomassoni
03/29/2012	5305a	Comm report: To pass as amended
	5413	Second reading
04/19/2012		Special Order: Amended
		Third reading Passed

1.1	A bill for an act
1.2	relating to state government; providing methods for certain review of, and
1.3	reporting on, agency rules; amending Minnesota Statutes 2010, sections 14.05,
1.4	subdivision 1, by adding a subdivision; 14.116; 14.131.

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

Section 1. Minnesota Statutes 2010, section 14.05, subdivision 1, is amended to read:

Subdivision 1. **Authority to adopt original rules restricted.** (a) Each agency shall adopt, amend, suspend, or repeal its rules: (1) in accordance with the procedures specified in sections 14.001 to 14.69, and; (2) only pursuant to authority expressly delegated by state or federal law; (3) only that are necessary to serve the public interest; and (4) in full compliance with its duties and obligations.

- (b) If a law authorizing rules is repealed, the rules adopted pursuant to that law are automatically repealed on the effective date of the law's repeal unless there is another law authorizing the rules.
- (c) Except as provided in section 14.06, sections 14.001 to 14.69 shall not be authority for an agency to adopt, amend, suspend, or repeal rules.
- 1.17 Sec. 2. Minnesota Statutes 2010, section 14.05, is amended by adding a subdivision to read:
 - Subd. 1a. Limitation regarding certain policies, guidelines, and other nonbinding interpretive statements. Except as specifically authorized by law, an agency shall not seek to enforce against any person a policy, guideline, or other nonbinding interpretive statement that meets the definition of a rule if the policy, guideline, or other

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nonbinding interpretive statement has not been adopted as a rule in accordance with this chapter.

Sec. 3. Minnesota Statutes 2010, section 14.116, is amended to read:

14.116 NOTICE TO LEGISLATURE.

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- (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 notice of intent to adopt rules under section 14.14 or 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. 4. Minnesota Statutes 2010, 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;

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(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;

proposed rule that were seriously considered by the agency and the reasons why they

were rejected in favor of the proposed rule;

- (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; and
- (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. The agency must send a copy of the statement of need and reasonableness to the Legislative Reference Library when the notice of hearing is mailed under section 14.14, subdivision 1a.

Sec. 5. **REPORTS.**

By January 15, 2013, the Pollution Control Agency, Department of Natural

Resources, Board of Water and Soil Resources, Environmental Quality Board, and

Department of Agriculture must each report to the governor, the Legislative Coordinating

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4.1	Commission, and the policy and funding committees and divisions with jurisdiction over
4.2	the agency. Each report must list the rules promulgated by the agency and provide the
4.3	following information: (1) the statutory authority; (2) an assessment of any differences
4.4	between the rules and existing federal regulations; (3) a list and brief rationale for rules
4.5	that the agency believes should remain in effect; (4) any changes that would improve the
4.6	agency's ability to meet the regulatory objectives prescribed by the legislature, while
4.7	reducing an unnecessary burdens on regulated parties, including any means to better
4.8	coordinate rulemaking between state agencies and other state and federal agencies. Any
4.9	costs of preparing this report must be absorbed within funds otherwise appropriated to
4.10	the agency.

Sec. 5. 4