

Palmer
House BILL NO. *329*
 INTRODUCED BY *Travis Holmes*

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 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE
 5 DEPARTMENT OF INSTITUTIONS TO COMPLY WITH THE "MONTANA
 6 ADMINISTRATIVE PROCEDURE ACT" BY AMENDING SECTION 82-4202,
 7 R.C.M. 1947."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 82-4202, R.C.M. 1947, is amended to
 11 read as follows:

12 "82-4202. Definitions. For purposes of this act:

13 (1) "Agency" means any board, bureau, commission,
 14 department, authority or officer of the state government
 15 authorized by law to make rules and to determine contested
 16 cases, except that the provisions of this act shall not
 17 apply to the following:

18 (a) the legislature and any branch, committee or
 19 officer thereof;

20 (b) the judicial branches and any committee or officer
 21 thereof;

22 (c) the governor, except that an agency otherwise
 23 covered by this act shall not be exempt because the governor
 24 has been designated as a member thereof;

25 (d) the state military establishment and agencies

1 concerned with civil defense and recovery from hostile
 2 attack;

3 (e) the state board of pardons, except that said board
 4 shall be subject to the requirements of section 3 [82-4203]
 5 and 5 [82-4205] of this act and its rules shall be published
 6 in the Montana administrative code and register;

7 ~~(f) the supervision and administration of any penal,~~
 8 ~~mental, medical or eleemosynary institution with regard to~~
 9 ~~the admission, release, institutional supervision, custody,~~
 10 ~~control, care or treatment of inmates, prisoners or~~
 11 ~~patients;~~

12 (g) (f) the administration and management of
 13 educational institutions;

14 (h) (g) the financing, construction and maintenance
 15 of public works.

16 (2) "Rule" means each agency regulation, standard or
 17 statement of general applicability that implements,
 18 interprets, or prescribes law or policy or describes the
 19 organization, procedures, or practice requirements of an
 20 agency. The term includes the amendment or repeal of a prior
 21 rule, but does not include:

22 (a) statements concerning only the internal management
 23 of an agency and not affecting private rights or procedures
 24 available to the public;

25 (b) declaratory rulings issued pursuant to section 18

1 [82-4218] of this act;

2 (c) intra-agency memoranda;

3 (d) rules relating to the use of public works,
4 facilities, streets and highways, when the substance of such
5 rules is indicated to the public by means of signs or
6 signals;

7 (e) seasonal rules adopted annually relating to
8 hunting, fishing and trapping when there is a statutory
9 requirement for the publication of such rules, and rules
10 adopted annually relating to the seasonal recreational use
11 of lands and waters owned or controlled by the state when
12 the substance of such rules is indicated to the public by
13 means of signs or signals;

14 (f) rules relating to personnel standards, job
15 classifications or salary ranges for agency employees;

16 (g) uniform rules adopted pursuant to interstate
17 compact, except that such rules shall be filed in accordance
18 with section 10 [82-4210] of this act and shall be published
19 in the Montana administrative code and register.

20 (3) "Contested case" means any proceeding before an
21 agency in which a determination of legal rights, duties or
22 privileges of a party is required by law to be made after an
23 opportunity for hearing. The term includes, but is not
24 restricted to, rate making, price fixing and licensing.

25 (4) "License" includes the whole or part of any agency

1 permit, certificate, approval, registration, charter or
2 other form of permission required by law, but does not
3 include a license required solely for revenue purposes.

4 (5) "Licensing" includes any agency process respecting
5 the grant, denial, renewal, revocation, suspension,
6 annulment, withdrawal, limitation or amendment of a license.

7 (6) "Party" means any person or agency named or
8 admitted as a party, or properly seeking and entitled as of
9 right to be admitted as a party; but nothing herein shall be
10 construed to prevent an agency from admitting any person or
11 agency as a party for limited purposes.

12 (7) "Person" means any individual, partnership,
13 corporation, association, governmental subdivision or public
14 organization of any character other than an agency."

-End-

Approved by Committee
on Judiciary

HOUSE BILL NO. 329

INTRODUCED BY TRAVIS, HOLMES, HUENNEKENS, MELOY, PALMER

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE DEPARTMENT OF INSTITUTIONS TO COMPLY WITH THE "MONTANA ADMINISTRATIVE PROCEDURE ACT" BY AMENDING SECTION 82-4202, R.C.M. 1947; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 82-4202, R.C.M. 1947, is amended to read as follows:

"82-4202. Definitions. For purposes of this act:

(1) "Agency" means any board, bureau, commission, department, authority or officer of the state government authorized by law to make rules and to determine contested cases, except that the provisions of this act shall not apply to the following:

(a) the legislature and any branch, committee or officer thereof;

(b) the judicial branches and any committee or officer thereof;

(c) the governor, except that an agency otherwise covered by this act shall not be exempt because the governor has been designated as a member thereof;

(d) the state military establishment and agencies

concerned with civil defense and recovery from hostile attack;

(e) the state board of pardons, except that said board shall be subject to the requirements of section 3 [82-4203] and 5 [82-4205] of this act and its rules shall be published in the Montana administrative code and register;

~~(f) the supervision and administration of any penal, mental, medical or eleemosynary institution with regard to the admission, release, institutional supervision, custody, control, care or treatment of inmates, prisoners or patients;~~

~~(g) (f)~~ the administration and management of educational institutions;

~~(h) (g)~~ the financing, construction and maintenance of public works.

(2) "Rule" means each agency regulation, standard or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of an agency. The term includes the amendment or repeal of a prior rule, but does not include:

(a) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public;

(b) declaratory rulings issued pursuant to section 18

1 [82-4218] of this act;

2 (c) intra-agency memoranda;

3 (d) rules relating to the use of public works,

4 facilities, streets and highways, when the substance of such

5 rules is indicated to the public by means of signs or

6 signals;

7 (e) seasonal rules adopted annually relating to

8 hunting, fishing and trapping when there is a statutory

9 requirement for the publication of such rules, and rules

10 adopted annually relating to the seasonal recreational use

11 of lands and waters owned or controlled by the state when

12 the substance of such rules is indicated to the public by

13 means of signs or signals;

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15 classifications or salary ranges for agency employees;

16 (g) uniform rules adopted pursuant to interstate

17 compact, except that such rules shall be filed in accordance

18 with section 10 [82-4210] of this act and shall be published

19 in the Montana administrative code and register.

20 (3) "Contested case" means any proceeding before an

21 agency in which a determination of legal rights, duties or

22 privileges of a party is required by law to be made after an

23 opportunity for hearing. The term includes, but is not

24 restricted to, rate making, price fixing and licensing.

25 (4) "License" includes the whole or part of any agency

1 permit, certificate, approval, registration, charter or

2 other form of permission required by law, but does not

3 include a license required solely for revenue purposes.

4 (5) "Licensing" includes any agency process respecting

5 the grant, denial, renewal, revocation, suspension,

6 annulment, withdrawal, limitation or amendment of a license.

7 (6) "Party" means any person or agency named or

8 admitted as a party, or properly seeking and entitled as of

9 right to be admitted as a party; but nothing herein shall be

10 construed to prevent an agency from admitting any person or

11 agency as a party for limited purposes.

12 (7) "Person" means any individual, partnership,

13 corporation, association, governmental subdivision or public

14 organization of any character other than an agency."

15 SECTION 2. THIS ACT IS EFFECTIVE ON JANUARY 1, 1976.

-End-

HOUSE BILL NO. 329

INTRODUCED BY TRAVIS, HOLMES, HUENNEKENS, MELOY, PALMER

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10 adopted annually relating to the seasonal recreational use
11 of lands and waters owned or controlled by the state when
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17 compact, except that such rules shall be filed in accordance
18 with section 10 [82-4210] of this act and shall be published
19 in the Montana administrative code and register.

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21 agency in which a determination of legal rights, duties or
22 privileges of a party is required by law to be made after an
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