

1 *Senate* BILL NO. 135
 2 INTRODUCED BY *Robert Turney*
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 82-4204, R.C.M. 1947, TO PROVIDE FOR PUBLICATION AND MAILING
 6 OF NOTICE OF PROPOSED RULES AT LEAST FORTY DAYS PRIOR TO THE
 7 AGENCY'S INTENDED ACTION."
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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 10 Section 1. Section 82-4204, R.C.M. 1947, is amended to
 11 read as follows:

12 "82-4204. Adoption -- amendment or repeal of rules --
 13 emergency rules. (1) Prior to the adoption, amendment or
 14 repeal of any rule, the agency shall:

15 (a) Give written notice of its intended action. The
 16 notice shall include a statement of either the terms or
 17 substance of the intended action or a description of the
 18 subjects and issues involved, and the time when, place
 19 where, and manner in which interested persons may present
 20 their views thereon. The notice shall be filed with the
 21 secretary of state for publication in the Montana
 22 administrative register as provided in section 6 (2)
 23 [82-4206 (2)] of this act and mailed to persons who have
 24 made timely requests to the agency for advance notice of its
 25 rule-making proceedings. The notice shall be published and

1 mailed at least ~~twenty-(20)~~ forty (40) days in advance of
 2 the agency's intended action. If any statute shall provide
 3 for a different method of publication, the affected agency
 4 shall comply with the statute in addition to the
 5 requirements contained herein. However, in no case shall the
 6 notice period be less than ~~twenty-(20)~~ forty (40) days.

7 (b) Afford interested persons reasonable opportunity to
 8 submit data, views or arguments, orally or in writing. In
 9 the case of substantive rules, opportunity for oral hearing
 10 shall be granted if requested by either ten per cent (10%)
 11 or twenty-five (25) of the persons who will be directly
 12 affected by the proposed rule, by a governmental subdivision
 13 or agency or by an association having not less than
 14 twenty-five (25) members who will be directly affected.
 15 Contested case procedures need not be followed in hearings
 16 held pursuant to this section. Where a hearing is otherwise
 17 required by statute, nothing herein shall be deemed to alter
 18 that requirement. The agency shall consider fully written
 19 and oral submissions respecting the proposed rule. Upon
 20 adoption of a rule, an agency, if requested to do so by an
 21 interested person either prior to adoption or within thirty
 22 (30) days thereafter, shall issue a concise statement of the
 23 principal reasons for and against its adoption,
 24 incorporating therein its reasons for overruling the
 25 considerations urged against its adoption.

1 (2) If an agency finds that an imminent peril to the
2 public health, safety or welfare requires adoption of a rule
3 upon fewer than ~~twenty-(20)~~ forty (40) days' notice and
4 states in writing its reasons for that finding, it may
5 proceed, without prior notice or hearing or upon any
6 abbreviated notice and hearing that it finds practicable, to
7 adopt an emergency rule. The rule may be effective for a
8 period not longer than one hundred and twenty (120) days,
9 but the adoption of an identical rule under subsections (1)
10 (a) and (1) (b) of this section is not precluded. The
11 sufficiency of the reasons for a finding of imminent peril
12 to the public health, safety or welfare shall be subject to
13 judicial review.

14 (3) No rule adopted after the effective date of this
15 act shall be valid unless adopted in substantial compliance
16 with subsections (1) and (2) of this section.

17 (4) An agency may use informal conferences and
18 consultations as a means of obtaining the viewpoints and
19 advice of interested persons with respect to contemplated
20 rule making. An agency may also appoint committees of
21 experts or interested persons or representatives of the
22 general public to advise it with respect to any contemplated
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24 only. Nothing herein shall relieve the agency from following
25 rule-making procedures required by this act.

1 (5) Rules shall not unnecessarily repeat statutory
2 language. Whenever it is necessary to refer to statutory
3 language in order to convey the meaning of a rule
4 interpreting the language, the reference shall clearly
5 indicate that portion of the language which is statutory and
6 the portion which is amplification of the language. Each
7 rule shall include a citation of authority pursuant to which
8 it, or any part thereof, is adopted.

9 (6) Each agency shall at least annually review its
10 rules to determine if any new rule should be adopted or any
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-End-

Approved by Committee
on State Administration

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HOUSE OF REPRESENTATIVES

March 15, 1975

HOUSE COMMITTEE ON STATE ADMINISTRATION AMENDMENT TO SENATE BILL 135

1. Amend Title, page 1, line 6.

Following: "LEAST"
Strike: "FORTY"
Insert: "THIRTY"

2. Amend Title, page 1, line 7.

Following: "ACTION"
Insert: "; TO PROVIDE TWENTY (20) DAYS TO SUBMIT DATA; AND TO PROVIDE FOR THE EXTENSION OF A HEARING DATE UP TO TWENTY (20) DAYS"

3. Amend page 2, section 1 , line 1.

Following: "~~twenty-(20)~~"
Strike: "forty (40)"
Insert: "thirty (30)"

4. Amend page 2, section 1 , line 6.

Following: "~~twenty-(20)~~"
Strike: "forty (40)"
Insert: "thirty (30)"

5. Amend page 2, section 1 , line 7.

Following: "persons"
Strike: "reasonable opportunity"
Insert: "twenty (20) days"

6. Amend page 2, section 1 , line 14.

Following: "affected."
Insert: "An interested person may file a written request with the agency to extend a hearing date up to twenty (20) days."

7. Amend page 3, section 1. subsection (2), line 3.

Following: "~~twenty-(20)~~"
Strike: "forty (40)"
Insert: "thirty (30)"

AS SO AMENDED
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