

SENATE BILL NO. 21

INTRODUCED BY STORY

BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

IN THE SENATE

JANUARY 5, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON STATE ADMINISTRATION.

JANUARY 8, 1987 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 9, 1987 PRINTING REPORT.

JANUARY 12, 1987 SECOND READING, DO PASS.

JANUARY 13, 1987 ENGROSSING REPORT.

JANUARY 14, 1987 THIRD READING, PASSED.
AYES, 50; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 4, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON STATE ADMINISTRATION.

MARCH 3, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 4, 1987 ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

MARCH 5, 1987 ON MOTION, CONSIDERATION PASSED
UNTIL THE 52ND LEGISLATIVE DAY.

MARCH 9, 1987 SECOND READING, CONCURRED IN AS
AMENDED.

MARCH 11, 1987 THIRD READING, CONCURRED IN.
AYES, 92; NOES, 4.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 18, 1987

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 19, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 SENATE BILL NO. 21
 2 INTRODUCED BY STORY
 3 BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
 6 ADOPTION OF TEMPORARY RULES TO IMPLEMENT STATUTES WITH EARLY
 7 EFFECTIVE DATES; DEFINING PUBLIC WELFARE FOR PURPOSES OF
 8 ADOPTING EMERGENCY RULES; AMENDING SECTIONS 2-4-303 AND
 9 2-4-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 2-4-303, MCA, is amended to read:
 13 "2-4-303. Emergency or temporary rules. (1) If an
 14 agency finds that an imminent peril to the public health,
 15 safety, or welfare requires adoption of a rule upon fewer
 16 than 30 days' notice and states in writing its reasons for
 17 that finding, it may proceed, without prior notice or
 18 hearing or upon any abbreviated notice and hearing that it
 19 finds practicable, to adopt an emergency rule. The rule may
 20 be effective for a period not longer than 120 days, but the
 21 adoption of an identical rule under 2-4-302 is not
 22 precluded.

23 †2) The sufficiency of the reasons for a finding of
 24 imminent peril to the public health, safety, or welfare is
 25 subject to judicial review. As used in this subsection,

1 public welfare means the well-being of the public at large.
 2 Public welfare includes order, morals, economic interests,
 3 and public convenience.

4 (2) A statute enacted or amended to be effective prior
 5 to October 1 of the year of enactment or amendment may be
 6 implemented by a temporary administrative rule without prior
 7 notice or hearing or upon any abbreviated notice or hearing
 8 that the agency finds practicable. The temporary rule is
 9 effective until October 1 of the year of adoption. The
 10 adoption of an identical rule under 2-4-302 is not precluded
 11 during the period the temporary rule is effective."

12 Section 2. Section 2-4-306, MCA, is amended to read:
 13 "2-4-306. Filing, format, and effective date --
 14 dissemination of emergency rules. (1) Each agency shall file
 15 with the secretary of state a copy of each rule adopted by
 16 it.

17 (2) The secretary of state may prescribe a format,
 18 style, and arrangement for notices and rules which are filed
 19 pursuant to this chapter and may refuse to accept the filing
 20 of any notice or rule that is not in compliance therewith.
 21 He shall keep and maintain a permanent register of all
 22 notices and rules filed, including superseded and repealed
 23 rules, which shall be open to public inspection and shall
 24 provide copies of any notice or rule upon request of any
 25 person. Unless otherwise provided by statute, the secretary



-2- INTRODUCED BILL
 SB-21

1 of state may require the payment of the cost of providing
2 such copies.

3 (3) In the event that the administrative code
4 committee has conducted a poll of the legislature in
5 accordance with 2-4-403 or the revenue oversight committee
6 has conducted a poll in accordance with 5-18-109, the
7 results of the poll shall be published with the rule.

8 (4) Each rule shall become effective after publication
9 in the register as provided in 2-4-312, except that:

10 (a) if a later date is required by statute or
11 specified in the rule, the later date shall be the effective
12 date;

13 (b) subject to applicable constitutional or statutory
14 provisions:

15 (i) a temporary rule is effective immediately upon
16 filing with the secretary of state or at a stated date
17 following publication in the register; and

18 (ii) an emergency rule shall become effective
19 immediately upon filing with the secretary of state or at a
20 stated date following publication in the register if the
21 agency finds that this effective date is necessary because
22 of imminent peril to the public health, safety, or welfare.
23 The agency's finding and a brief statement of reasons
24 therefor shall be filed with the rule. The agency shall take
25 appropriate measures to make emergency rules known to every

1 person who may be affected by them."

2 NEW SECTION. Section 3. Effective date. This act is
3 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

1 SENATE BILL NO. 21
 2 INTRODUCED BY STORY
 3 BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
 6 ADOPTION OF TEMPORARY RULES TO IMPLEMENT STATUTES WITH EARLY
 7 EFFECTIVE DATES; ~~DEFINING--PUBLIC--WELFARE--FOR--PURPOSES--OF~~
 8 ~~ADOPTING--EMERGENCY--RULES;~~ AMENDING SECTIONS 2-4-303 AND
 9 2-4-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 2-4-303, MCA, is amended to read:

13 "2-4-303. Emergency or temporary rules. (1) If an
 14 agency finds that an imminent peril to the public health,
 15 safety, or welfare requires adoption of a rule upon fewer
 16 than 30 days' notice and states in writing its reasons for
 17 that finding, it may proceed, without prior notice or
 18 hearing or upon any abbreviated notice and hearing that it
 19 finds practicable, to adopt an emergency rule. The rule may
 20 be effective for a period not longer than 120 days, but the
 21 adoption of an identical rule under 2-4-302 is not
 22 precluded.

23 (2) The sufficiency of the reasons for a finding of
 24 imminent peril to the public health, safety, or welfare is
 25 subject to judicial review. ~~As-used-in-this-subsection,~~

1 ~~public-welfare-means-the-well-being-of-the-public-at--larger~~
 2 ~~Public--welfare--includes-order, morals, economic-interests,~~
 3 ~~and-public-convenience.~~

4 (2) A statute enacted or amended to be effective prior
 5 to October 1 of the year of enactment or amendment may be
 6 implemented by a temporary administrative rule, ADOPTED
 7 BEFORE OCTOBER 1 OF THAT YEAR, without prior notice or
 8 hearing or upon any abbreviated notice or hearing that the
 9 agency finds practicable. The temporary rule is effective
 10 until October 1 of the year of adoption. The adoption of an
 11 identical rule under 2-4-302 is not precluded during the
 12 period the temporary rule is effective."

13 Section 2. Section 2-4-306, MCA, is amended to read:

14 "2-4-306. Filing, format, and effective date --
 15 dissemination of emergency rules. (1) Each agency shall file
 16 with the secretary of state a copy of each rule adopted by
 17 it.

18 (2) The secretary of state may prescribe a format,
 19 style, and arrangement for notices and rules which are filed
 20 pursuant to this chapter and may refuse to accept the filing
 21 of any notice or rule that is not in compliance therewith.
 22 He shall keep and maintain a permanent register of all
 23 notices and rules filed, including superseded and repealed
 24 rules, which shall be open to public inspection and shall
 25 provide copies of any notice or rule upon request of any



1 person. Unless otherwise provided by statute, the secretary
 2 of state may require the payment of the cost of providing
 3 such copies.

4 (3) In the event that the administrative code
 5 committee has conducted a poll of the legislature in
 6 accordance with 2-4-403 or the revenue oversight committee
 7 has conducted a poll in accordance with 5-18-109, the
 8 results of the poll shall be published with the rule.

9 (4) Each rule shall become effective after publication
 10 in the register as provided in 2-4-312, except that:

11 (a) if a later date is required by statute or
 12 specified in the rule, the later date shall be the effective
 13 date;

14 (b) subject to applicable constitutional or statutory
 15 provisions:

16 (i) a temporary rule is effective immediately upon
 17 filing with the secretary of state or at a stated date
 18 following publication in the register; and

19 (ii) an emergency rule shall become effective
 20 immediately upon filing with the secretary of state or at a
 21 stated date following publication in the register if the
 22 agency finds that this effective date is necessary because
 23 of imminent peril to the public health, safety, or welfare.
 24 The agency's finding and a brief statement of reasons
 25 therefor shall be filed with the rule. The agency shall take

1 appropriate measures to make emergency rules known to every
 2 person who may be affected by them."

3 NEW SECTION. Section 3. Effective date. This act is
 4 effective on passage and approval.

-End-

SENATE BILL NO. 21

INTRODUCED BY STORY

BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE ADOPTION OF TEMPORARY RULES TO IMPLEMENT STATUTES WITH EARLY EFFECTIVE DATES; ~~DEFINING--PUBLIC--WELFARE--FOR--PURPOSES--OF ADOPTING--EMERGENCY--RULES;~~ AMENDING SECTIONS 2-4-303 AND 2-4-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 2-4-303, MCA, is amended to read:

"2-4-303. Emergency or temporary rules. (1) If an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon fewer than 30 days' notice and states in writing its reasons for that finding, it may proceed, without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency rule. The rule may be effective for a period not longer than 120 days, but the adoption of an identical rule under 2-4-302 is not precluded.

{2} The sufficiency of the reasons for a finding of imminent peril to the public health, safety, or welfare is subject to judicial review. As-used-in-this-subsection

~~public-welfare-means-the-well-being-of-the-public-at--larger Public--welfare--includes-orderly-morals-economic-interests, and-public-convenience;~~

(2) A statute enacted or amended to be effective prior to October 1 of the year of enactment or amendment may be implemented by a temporary administrative rule, ADOPTED BEFORE OCTOBER 1 OF THAT YEAR, without prior notice or hearing or upon any abbreviated notice or hearing that the agency finds practicable. The temporary rule is effective until October 1 of the year of adoption. The adoption of an identical rule under 2-4-302 is not precluded during the period the temporary rule is effective."

Section 2. Section 2-4-306, MCA, is amended to read:

"2-4-306. Filing, format, and effective date -- dissemination of emergency rules. (1) Each agency shall file with the secretary of state a copy of each rule adopted by it.

(2) The secretary of state may prescribe a format, style, and arrangement for notices and rules which are filed pursuant to this chapter and may refuse to accept the filing of any notice or rule that is not in compliance therewith. He shall keep and maintain a permanent register of all notices and rules filed, including superseded and repealed rules, which shall be open to public inspection and shall provide copies of any notice or rule upon request of any

1 person. Unless otherwise provided by statute, the secretary
2 of state may require the payment of the cost of providing
3 such copies.

4 (3) In the event that the administrative code
5 committee has conducted a poll of the legislature in
6 accordance with 2-4-403 or the revenue oversight committee
7 has conducted a poll in accordance with 5-18-109, the
8 results of the poll shall be published with the rule.

9 (4) Each rule shall become effective after publication
10 in the register as provided in 2-4-312, except that:

11 (a) if a later date is required by statute or
12 specified in the rule, the later date shall be the effective
13 date;

14 (b) subject to applicable constitutional or statutory
15 provisions;

16 (i) a temporary rule is effective immediately upon
17 filing with the secretary of state or at a stated date
18 following publication in the register; and

19 (ii) an emergency rule shall become effective
20 immediately upon filing with the secretary of state or at a
21 stated date following publication in the register if the
22 agency finds that this effective date is necessary because
23 of imminent peril to the public health, safety, or welfare.
24 The agency's finding and a brief statement of reasons
25 therefor shall be filed with the rule. The agency shall take

1 appropriate measures to make emergency rules known to every
2 person who may be affected by them."

3 NEW SECTION. Section 3. Effective date. This act is
4 effective on passage and approval.

-End-

1 SENATE BILL NO. 21

2 INTRODUCED BY STORY

3 BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
6 ADOPTION OF TEMPORARY RULES TO IMPLEMENT STATUTES WITH EARLY
7 EFFECTIVE DATES; ~~DEFINING--PUBLIC--WELFARE--FOR--PURPOSES--OF~~
8 ~~ADOPTING--EMERGENCY--RULES~~; AMENDING SECTIONS 2-4-303 AND
9 2-4-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 2-4-303, MCA, is amended to read:

13 "2-4-303. Emergency or temporary rules. (1) If an
14 agency finds that an imminent peril to the public health,
15 safety, or welfare requires adoption of a rule upon fewer
16 than 30 days' notice and states in writing its reasons for
17 that finding, it may proceed, without prior notice or
18 hearing or upon any abbreviated notice and hearing that it
19 finds practicable, to adopt an emergency rule. The rule may
20 be effective for a period not longer than 120 days, but the
21 adoption of an identical rule under 2-4-302 is not
22 precluded.

23 (2) The sufficiency of the reasons for a finding of
24 imminent peril to the public health, safety, or welfare is
25 subject to judicial review. ~~As-used-in-this-subsection,~~

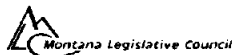
1 ~~public-welfare-means-the-well-being-of-the-public-at--large-~~
2 ~~Public--welfare--includes-order,morals,economic-interests,~~
3 ~~and-public-convenience.~~

4 (2) A statute enacted or amended to be effective prior
5 to October 1 of the year of enactment or amendment may be
6 implemented by a temporary administrative rule, ADOPTED
7 BEFORE OCTOBER 1 OF THAT YEAR, ~~without--prior--notice--or~~
8 ~~hearing--or~~ upon any abbreviated notice or hearing that the
9 agency finds practicable, BUT THE RULE MAY NOT BE FILED WITH
10 THE SECRETARY OF STATE UNTIL AT LEAST 30 DAYS HAVE PASSED
11 SINCE PUBLICATION OF THE NOTICE OF PROPOSAL TO ADOPT THE
12 RULE. The temporary rule is effective until October 1 of the
13 year of adoption. The adoption of an identical rule under
14 2-4-302 is not precluded during the period the temporary
15 rule is effective."

16 Section 2. Section 2-4-306, MCA, is amended to read:

17 "2-4-306. Filing, format, and effective date --
18 dissemination of emergency rules. (1) Each agency shall file
19 with the secretary of state a copy of each rule adopted by
20 it.

21 (2) The secretary of state may prescribe a format,
22 style, and arrangement for notices and rules which are filed
23 pursuant to this chapter and may refuse to accept the filing
24 of any notice or rule that is not in compliance therewith.
25 He shall keep and maintain a permanent register of all



1 notices and rules filed, including superseded and repealed
 2 rules, which shall be open to public inspection and shall
 3 provide copies of any notice or rule upon request of any
 4 person. Unless otherwise provided by statute, the secretary
 5 of state may require the payment of the cost of providing
 6 such copies.

7 (3) In the event that the administrative code
 8 committee has conducted a poll of the legislature in
 9 accordance with 2-4-403 or the revenue oversight committee
 10 has conducted a poll in accordance with 5-18-109, the
 11 results of the poll shall be published with the rule.

12 (4) Each rule shall become effective after publication
 13 in the register as provided in 2-4-312, except that:

14 (a) if a later date is required by statute or
 15 specified in the rule, the later date shall be the effective
 16 date;

17 (b) subject to applicable constitutional or statutory
 18 provisions;

19 (i) a temporary rule is effective immediately upon
 20 filing with the secretary of state or at a stated date
 21 following publication in the register; and

22 (ii) an emergency rule shall become effective
 23 immediately upon filing with the secretary of state or at a
 24 stated date following publication in the register if the
 25 agency finds that this effective date is necessary because

1 of imminent peril to the public health, safety, or welfare.
 2 The agency's finding and a brief statement of reasons
 3 therefor shall be filed with the rule. The agency shall take
 4 appropriate measures to make emergency rules known to every
 5 person who may be affected by them."

6 NEW SECTION. Section 3. Effective date. This act is
 7 effective on passage and approval.

-End-

COMMITTEE OF THE WHOLE AMENDMENT

HOUSE

~~3-9-87~~
DATE

~~11:30~~
TIME

MR. CHAIRMAN: I MOVE TO AMEND SB 21

3rd reading copy (blue) as follows:
Color

PASSED

1) Page 2, line 7.

Strike: "without" through "hearing or" on line 8

2) Page 2, line 9.

Following: "practicable"

Insert: ", but the rule may not be filed with the secretary of state until at least 30 days have passed since publication of the notice of proposal to adopt the rule"

ADOPT

REJECT

391130T.CW


Rep. Spaeth