

1 HOUSE BILL NO. 42

2 INTRODUCED BY COBB

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AN AGENCY IS NOT REQUIRED TO HOLD
5 A HEARING ON A PETITION FOR RULEMAKING; AND AMENDING SECTION 2-4-315, MCA."6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:8
9 **Section 1.** Section 2-4-315, MCA, is amended to read:10 **"2-4-315. Petition for adoption, amendment, or repeal of rules. (1)** An interested person or, when
11 the legislature is not in session, a member of the legislature on behalf of an interested person may petition
12 an agency requesting the promulgation, amendment, or repeal of a rule. Each agency shall, in its sole
13 discretion, determine and prescribe by rule the form for petitions and the procedure for their submission,
14 consideration, and disposition. Within 60 days after submission of a petition, the agency either shall deny
15 the petition in writing (stating its reasons for the denial) or shall initiate rulemaking proceedings in
16 accordance with 2-4-302 through 2-4-305.17 (2) Except as provided in 2-4-307, the agency is not required to hold a hearing on the petition or
18 initiate or otherwise engage in rulemaking proceedings as a result of the petition. This subsection applies:19 (a) whether or not the petition proposes one or more particular rules; and20 (b) to rulemaking authority grants that are:21 (i) mandatory;22 (ii) discretionary; or23 (iii) phrased in such a way that they provide:24 (A) that the agency shall adopt necessary rules;25 (B) that the agency shall adopt appropriate rules; or26 (C) similar language."

27 -END-

APPROVED BY COM
ON JUDICIARY

HOUSE BILL NO. 42

INTRODUCED BY COBB

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN AGENCY PRESENTED WITH A PETITION FOR RULEMAKING TO ISSUE ITS DECISION IN WRITING, BASED ON THE RECORD; REQUIRING THE AGENCY TO INCLUDE THE REASONS FOR THE DECISION IN THE WRITTEN DECISION; PROVIDING THAT AN AGENCY IS NOT REQUIRED TO HOLD A HEARING ON A PETITION FOR RULEMAKING; AND AMENDING SECTION 2-4-315, MCA."

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

Section 1. Section 2-4-315, MCA, is amended to read:

"2-4-315. Petition for adoption, amendment, or repeal of rules. ~~(1)~~ An interested person or, when the legislature is not in session, a member of the legislature on behalf of an interested person may petition an agency requesting the promulgation, amendment, or repeal of a rule. Each agency shall, ~~in its sole discretion,~~ determine and prescribe by rule the form for petitions and the procedure for their submission, consideration, and disposition. Within 60 days after submission of a petition, the agency either shall deny the petition in writing (stating its reasons for the denial) or shall initiate rulemaking proceedings in accordance with 2-4-302 through 2-4-305. A DECISION TO DENY A PETITION OR TO INITIATE RULEMAKING PROCEEDINGS MUST BE IN WRITING AND BASED ON RECORD EVIDENCE. THE WRITTEN DECISION MUST INCLUDE THE REASONS FOR THE DECISION. RECORD EVIDENCE MAY INCLUDE ANY EVIDENCE SUBMITTED BY THE PETITIONER ON BEHALF OF THE PETITION AND BY THE AGENCY AND INTERESTED PERSONS IN RESPONSE TO THE PETITION. AN AGENCY MAY, BUT IS NOT REQUIRED TO, CONDUCT A HEARING OR ORAL PRESENTATION ON THE PETITION IN ORDER TO DEVELOP A RECORD AND RECORD EVIDENCE AND TO ALLOW THE PETITIONER AND INTERESTED PERSONS TO PRESENT THEIR VIEWS.

~~(2) Except as provided in 2-4-307, the agency is not required to hold a hearing on the petition or initiate or otherwise engage in rulemaking proceedings as a result of the petition. This subsection applies:~~

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THIRD READING

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- 1 ~~(i) mandatory;~~
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