

## 1 HOUSE BILL NO. 23

2 INTRODUCED BY T. FUREY

3 BY REQUEST OF THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO PRIMARY SPONSOR CONTACT REQUIREMENTS  
6 FOR PURPOSES OF RULEMAKING; ALLOWING THE SECRETARY OF STATE TO USE LEGISLATOR  
7 CONTACT INFORMATION PROVIDED BY THE LEGISLATIVE SERVICES DIVISION; CLARIFYING THE  
8 METHODS OF PRIMARY SPONSOR CONTACT FOR THE PURPOSES OF RULEMAKING; AMENDING  
9 SECTION 2-4-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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13 **Section 1.** Section 2-4-302, MCA, is amended to read:

14 **"2-4-302. Notice, hearing, and submission of views.** (1) (a) Prior to the adoption, amendment, or  
15 repeal of any rule, the agency shall give written notice of its proposed action. The proposal notice must include  
16 a statement of either the terms or substance of the intended action or a description of the subjects and issues  
17 involved, the reasonable necessity for the proposed action, and the time when, place where, and manner in which  
18 interested persons may present their views on the proposed action. The reasonable necessity must be written  
19 in plain, easily understood language.

20 (b) The agency shall state in the proposal notice the date on which and the manner in which contact was  
21 made with the primary sponsor as required in subsection (2)(d). If the notification to the primary sponsor was  
22 given by mail, the date stated in the proposal notice must be the date on which the notification was mailed by the  
23 agency. If the proposal notice fails to state the date on which and the manner in which the primary sponsor was  
24 contacted, the filing of the proposal notice under subsection (2)(a) is ineffective for the purposes of this part and  
25 for the purposes of the law that the agency cites in the proposal notice as the authority for the proposed action.

26 (c) If the agency proposes to adopt, increase, or decrease a monetary amount that a person shall pay  
27 or will receive, such as a fee, cost, or benefit, the notice must include an estimate, if known, of:

- 28 (i) the cumulative amount for all persons of the proposed increase, decrease, or new amount; and  
29 (ii) the number of persons affected.

30 (2) (a) The proposal notice must be filed with the secretary of state for publication in the register, as

1 provided in 2-4-312. Within 3 days of publication, a copy of the published proposal notice must be sent to  
2 interested persons who have made timely requests to the agency to be informed of its rulemaking proceedings,  
3 and to the office of any professional, trade, or industrial society or organization or member of those entities who  
4 has filed a request with the appropriate administrative rule review committee when the request has been  
5 forwarded to the agency as provided in subsection (2)(b). Each agency shall create and maintain a list of  
6 interested persons and the subject or subjects in which each person on the list is interested. A person who  
7 submits a written comment or attends a hearing in regard to proposed agency action under this part must be  
8 informed of the list by the agency. An agency complies with this subsection if it includes in the proposal notice  
9 an advisement explaining how persons may be placed on the list of interested persons and if it complies with  
10 subsection (7).

11 (b) The appropriate administrative rule review committee shall forward a list of all organizations or  
12 persons who have submitted a request to be informed of agency actions to the agencies that the committee  
13 oversees that publish rulemaking notices in the register. The list must be amended by the agency upon request  
14 of any person requesting to be added to or deleted from the list.

15 (c) The proposal notice required by subsection (1) must be published at least 30 days in advance of the  
16 agency's proposed action. The agency shall post the proposal notice on a state electronic access system or other  
17 electronic communications system available to the public.

18 (d) (i) When an agency begins to work on the substantive content and the wording of a proposal notice  
19 for a rule that initially implements legislation, the agency shall contact, as provided in subsection (8), the legislator  
20 who was the primary sponsor of the legislation to:

21 (A) obtain the legislator's comments;

22 (B) inform the legislator of the known dates by which each step of the rulemaking process must be  
23 completed; and

24 (C) provide the legislator with information about the time periods during which the legislator may  
25 comment on the proposed rules, including the opportunity to provide comment to the appropriate administrative  
26 rule review committee.

27 (ii) If the legislation affected more than one program, the primary sponsor must be contacted pursuant  
28 to this subsection (2)(d) each time that a rule is being proposed to initially implement the legislation for a program.

29 (iii) Within 3 days after a proposal notice covered under subsection (2)(d)(i) has been published as  
30 required in subsection (2)(a), a copy of the published notice must be sent to the primary sponsor contacted under

1 this subsection (2)(d).

2 (3) If a statute provides for a method of publication different from that provided in subsection (2), the  
3 affected agency shall comply with the statute in addition to the requirements contained in this section. However,  
4 the notice period may not be less than 30 days or more than 6 months.

5 (4) Prior to the adoption, amendment, or repeal of any rule, the agency shall afford interested persons  
6 at least 20 days' notice of a hearing and at least 28 days from the day of the original notice to submit data, views,  
7 or arguments, orally or in writing. If an amended or supplemental notice is filed, additional time may be allowed  
8 for oral or written submissions. In the case of substantive rules, the notice of proposed rulemaking must state that  
9 opportunity for oral hearing must be granted if requested by either 10% or 25, whichever is less, of the persons  
10 who will be directly affected by the proposed rule, by a governmental subdivision or agency, by the appropriate  
11 administrative rule review committee, or by an association having not less than 25 members who will be directly  
12 affected. If the proposed rulemaking involves matters of significant interest to the public, the agency shall  
13 schedule an oral hearing.

14 (5) An agency may continue a hearing date for cause. In the discretion of the agency, contested case  
15 procedures need not be followed in hearings held pursuant to this section. If a hearing is otherwise required by  
16 statute, nothing in this section alters that requirement.

17 (6) If an agency fails to publish a notice of adoption within the time required by 2-4-305(7) and the  
18 agency again proposes the same rule for adoption, amendment, or repeal, the proposal must be considered a  
19 new proposal for purposes of compliance with this chapter.

20 (7) At the commencement of a hearing on the intended action, the person designated by the agency to  
21 preside at the hearing shall:

22 (a) read aloud the "Notice of Function of Administrative Rule Review Committee" appearing in the  
23 register; and

24 (b) inform the persons at the hearing of the provisions of subsection (2)(a) and provide them an  
25 opportunity to place their names on the list.

26 (8) (a) For purposes of contacting primary sponsors under ~~subsections (2)(a) and subsection (2)(d)~~, a  
27 current or former legislator who wishes to receive notice shall keep the current or former legislator's name,  
28 address, e-mail address, and telephone number on file with the secretary of state. The secretary of state may  
29 also use legislator contact information provided by the legislative services division for the purposes of the register.

30 The secretary of state shall update the contact information whenever the secretary of state receives corrected

1 information from the legislator or the legislative services division. An agency proposing rules shall consult the  
2 register when providing sponsor contact.

3 (b) An agency has complied with the primary bill sponsor contact requirements of this section when the  
4 agency has attempted to reach the primary bill sponsor at the legislator's address, e-mail address, and telephone  
5 number on file with the secretary of state pursuant to subsection (8)(a). If the agency is able to contact the  
6 primary sponsor by using less than all of these three methods of contact, the other methods need not be used."

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8 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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