



Montana Legislative Services Division
Legal Services Office

TO: State Administration and Veterans' Affairs Interim Committee

FROM: K. Virginia Aldrich

DATE: July 22, 2022

RE: Legislative Administrative Rule Review Report

Pursuant to 5-5-228, MCA, the State Administration and Veterans' Affairs Interim Committee is responsible for reviewing administrative rules within its jurisdiction. Staff for the State Administration and Veterans' Affairs Interim Committee has prepared this report for informational purposes only. This report does not represent any action or opinion of the State Administration and Veterans' Affairs Interim Committee and does not preclude additional action that may be taken by the State Administration and Veterans' Affairs Interim Committee pursuant to its authority under the Montana Administrative Procedure Act (Title 2, chapter 4, MCA).

MAR NOTICE NUMBER: 44-2-261

AGENCY/BOARD: Secretary of State

RULE CLASSIFICATION: (e.g., substantive/interpretive/emergency/temporary): Substantive

SUBJECT: Records and Information Management Fees, Delegation Authority for Disposal of Public Records, Records Storage Systems and Requirements

NOTICE DESCRIPTION: (e.g., proposal notice/adoption notice): Notice of Public Hearing on Proposed Adoption

SUMMARY OF RULE(S):

The Secretary of State proposes to repeal six rules pertaining to records and information management fees and amend three rules related to public records storage and disposal.

The Secretary of State proposes to repeal one rule concerning the retention of record on digital media. The Secretary of States notes that the State Records Committee recommended that the rule be repealed because it was "outdated and no longer relevant under current state record management technology standards." In addition, the statutory rulemaking authority for the rule and the associated statutes implemented by the rule had been previously repealed by the Legislature.

The Secretary of State proposes to repeal five additional rules that concern fees related to records management and supplies. According to the Secretary of State, "As of March 2019, the Office of the Secretary of State no longer charges fees to any agencies for records management services or supplies. As such, the Secretary proposed to repeal the above rules, as they no longer reflect agencies records management services and supplies practices." The Secretary of State noted that the repeal of these five rules "will not have a fiscal impact and no persons will be affected. Agencies currently receive records management services through a State approved vendor. The Secretary of State's Office has not received payment from fees charged for records management services and supplies in over three years."

The Secretary of State proposes to amend one rule that currently provides that the State Records Committee may approve annual delegation agreements for executive branch agencies to dispose of its public records pursuant to the agreement with annual review by the Secretary of State and the State Records Committee to determine if modifications are necessary. The proposed amendment will extend the delegation agreements to five years with a review required before renewal. According to the Secretary of State, the State Records Committee recommended that the delegation agreements be extended from one to five years. In addition, the proposed changes update statutory references.

The Secretary of State proposes to amend three additional rules to correct implemented statute citations.

Staff has contacted the Secretary of State and requested that in addition to the implemented statute citations, the Secretary of State also correct the rulemaking authority statutes in the amended rules. Previously, the statutes concerning public records were in a different part, and those statutes were reorganized and/or repealed in 2015 by House Bill 123. Because the statutes associated with those changes have been reorganized, each associated citation must now reference the new sections. The Secretary of State has agreed and has noted that these citations will be appropriately updated in the adoption notice.

NOTES: A public hearing will be held at 11 a.m. on August 12, 2022, in the Secretary of State's Office Conference Room, Room 260, State Capitol Building, Helena, Montana. The public comment period ends on August 19, 2022.

FULL TEXT OF NOTICE: The full text of the original proposal notice and the amended proposal may be found online at https://rules.mt.gov/gateway/Cycle_Home.asp?CID=3525.