



State Administration and Veterans' Affairs Interim Committee

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68th Montana Legislature

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TO: State Administration and Veterans' Affairs Interim Committee Members
FROM: Andria Hardin, Staff Attorney
DATE: July 10, 2023
RE: Administrative Rule Review Summary Since Last Interim

Department of Administration and administratively attached entities, including public employee retirement plans*

Proposal and Adoption Notices are available at: <https://doa.mt.gov/administrativerules>

*SAVA reviews rules for the Department of Administration except for (1) the State Compensation Insurance Fund provided for in [39-71-2313, MCA](#); (2) the Office of the State Public Defender; (3) the Montana Tax Appeal Board; and (4) the Division of Banking and Financial Institutions. Oversight for those entities is statutorily delegated to other interim committees.

Notice of Proposed Rules: None

Adopted Rules – Reviewed by Committee Prior to Adoption

Delegation of Purchasing Authority and Procurement, [MAR 2-5-628](#): The Department of Administration adopted rules increasing the threshold for small purchase procurement from \$5,000 to \$10,000, allowing a state agency to procure supplies and services with a total contract value of \$10,000 or more and less than \$100,000 using a limited solicitation procedure, if authorized in a written delegation agreement (increased from a total contract value of \$5,001 or more and less than \$25,000). The Department also repealed two rules that provided for a process by which a refund of less than \$3 would be paid. The Department stated this repeal is part of the Red Tape Relief Initiative and the procedure would be implemented through incorporation into the Montana Operations Manual (MOM) policy rather than rule. No public hearing was held. The Department considered comments and adopted and repealed the rules on September 13, 2022.

Adoption of the DOA's Public Meeting Rule by State Lottery and Sports Wagering Commission, [MAR 2-63-625](#): The commission adopted the public meeting rule of the Department of Administration. No public hearing was held. The commission considered comments and adopted the rule on September 13, 2023.

Adopted Rules – Not Reviewed by Committee Prior to Adoption

Update of Actuarial Rates and Assumptions by the Public Employees' Retirement Board, [MAR 2-43-633](#): The Board approved and adopted recommended assumptions based on an experience study conducted between July 1, 2016 and June 30, 2021. In order to give the applicable actuarial assumptions, rates, methods, and factors the force and effect of law (a requirement of the IRS), the reference to this updated experience study in the rule was required. No public hearing was held and no comments were received. The rule was adopted on February 14, 2023.

Revision of 457(b) Deferred Compensation Plan Document, [MAR 2-43-634](#): The federal Consolidated Appropriations Act signed into law on December 29, 2022 repealed the requirement that a 457(b) plan participant must enter into a salary reduction agreement to defer compensation to the plan before the beginning of the month to which the agreement will apply. The Public Employees' Retirement Board sought to revise the 457(b) Deferred Compensation Plan Document to incorporate this recent change to federal law. MAPA requires that changes to documents adopted by reference in administrative rules go through the administrative rulemaking process. Therefore, it was necessary to amend the rule that adopts the plan document to indicate the version of the plan document being adopted by reference. No public hearing was held and no comments were received. The rule was adopted on April 18, 2023.

Department of Military Affairs

Department of Military Affairs notices can be found on the Secretary of State's website at <http://www.mtfules.org/>. Under the Montana Administrative Register heading, type the number "34" in the "Search by Notice No." box and click on the "Go" icon.

No Proposed Rules or Amended Rules

Office of the Secretary of State and administratively attached entities, including Commissioner of Political Practices

Secretary of State notices can be found on the Secretary of State's website at <https://sosmt.gov/arm/secretary-of-state-administrative-rules/>.

Notice of Proposed Rules: None

Adopted Rules – Reviewed by Committee Prior to Adoption

Clarification of Timing of Certain Activities of Election Administrators, [MAR 44-2-259](#): The Secretary of State proposed to amend three rules to better clarify the timing of certain activities of election administrators by referencing statute in order to preclude varying interpretations of law and rule. The Office noted the changes were in line with SB 162 (2019), which among other things revised the timelines for handling absentee and mail ballots. On August 12, 2022 a public hearing was held. The Office considered public comment and adopted the rules on August 30, 2022.

Business Services Filings, [MAR 44-2-260](#): The Secretary of State proposed to amend seven rules relating to business service filings. The amendments deleted obsolete language based on system and policy changes (such as returning rather than rejecting documents and the full implementation of an electronic filing system). The amendments also updated filing fees, public information access and copying fees, and clarified terminology. On August 12, 2022 a public

hearing was held. The Office considered public comment and adopted the rules on August 30, 2022.

Records and Information Management Fees, Delegation Authority for Disposal of Public Records, Records Storage Systems and Requirements, [MAR 44-2-261](#): The Secretary of State proposed to repeal six rules pertaining to records and information management fees and amend three rules related to public records storage and disposal. The repeal of statutes and changes in practices related to records management services necessitated the repeal and amending of these rules, and also to correct statute citations. On August 12, 2022 a public hearing was held. The Office considered public comment and adopted the rules on August 30, 2022.

Scheduled Dates for the 2023 Montana Administrative Register, [MAR 44-2-262](#): The Secretary of State proposed to amend a rule providing a filing and publication schedule of the Montana Administrative Register (MAR) for 2023. On August 29, 2022 a public hearing was held. No comments or testimony were received. The rule was adopted September 13, 2022.

Adopted Rules – Not Reviewed by Committee Prior to Adoption

Payment Threshold for Lobbying Expenses Adjusted for Inflation, [MAR 44-2-263](#): Statute requires the Commissioner of Political Practices to adjust the payment threshold for reporting of lobbying-related expenses following each general election. The statute also requires the adjusted amount be adopted by rule. The rule updates the reference to the current calendar years (from 2021 and 2022 to 2023 and 2024) and increases the threshold from \$2,650 to \$2,900. No public hearing was held and no comments were received. The rule was adopted February 14, 2023.

Annual Report Fee Waiver Filed on Time by Corporations and Limited Liability Corporations, [MAR 44-2-264](#): Statute provides the Secretary of State set each fee authorized by law by administrative rule, and unless otherwise specified by law, the fees must be commensurate with the overall costs of the Office. The Office determined based on this language, the efficiencies in processing business filings by the online system implemented in December 2020, and record growth in new business filings over the past three years that a one-time fee waiver for annual report filings for corporations and limited liability corporations filing the required reports on time in 2024 is appropriate. On February 3, 2023 a public hearing was held. The Office considered public comment and adopted the rule on May 30, 2023.