



Montana Legislative Services Division

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TO: State Administration and Veterans' Affairs Interim Committee

FROM: Jaret Coles, Deputy Director of Legal Services

DATE: November 6, 2023

RE: Legislative Administrative Rule Review Report

Pursuant to 5-5-228, MCA, 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).

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.

MAR NOTICE NUMBER: 2-43-641

AGENCY/BOARD: Public Employees' Retirement Board

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

SUBJECT: Application Process for Disability Benefits.

NOTICE DESCRIPTION (e.g., proposal notice/adoption notice): Amended Notice of Proposed Amendment

SUMMARY OF RULE(S): The Public Employees' Retirement Board proposes to amend ARM 2-43-2602. The rule implements sections 19-2-406, 19-3-1002, 19-3-2141, 19-5-601, 19-6-601, 19-7-601, 19-8-701, 19-9-902, 19-13-802, MCA. The proposal requires an applicant to complete an application package or provide additional medical documentation within 90 days or an application may be administratively closed. The proposal also requires documentation from specialists when an applicant alleges certain disabling conditions.

NOTES: A public hearing is not contemplated, and the public comment period ends on November 17, 2023.

STAFF COMMENT: None.

FULL TEXT OF NOTICE: The full text of the proposal notice, and the amended proposal may be found online at <https://rules.mt.gov/gateway/ShowNoticeFile.asp?TID=11848>.

Secretary of State:

MAR NOTICE NUMBER: 44-2-268

AGENCY/BOARD: Secretary of State

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

SUBJECT: Ballot Form and Uniformity

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

SUMMARY OF RULE(S): The Secretary of State proposes to amend ARM 44.3.2408, which implements section [13-12-202](#), MCA. This amendment changes the rule to provide that county election administrators must follow the standards outlined in the [Ballot Layout Guide](#) that is published on the [Secretary of State's website](#). The existing rule incorporated the material by reference to a document as it existed on a certain date. The proposed amendment does not reference a specific date (see staff comment).

NOTES: A public hearing will be held on November 29, 2023, at 1:30 p.m. in the Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana. The public comment period ends on December 1, 2023.

STAFF COMMENT: Section [2-4-307](#), MCA, provides the manner in which an agency is to incorporate a publication by reference. Section [2-4-307](#)(1), MCA provides incorporation by reference is appropriate when the publication of the model code, rule, or other publication would be unduly cumbersome, expensive, or otherwise inexpedient and it is reasonable for the agency to adopt the model code, rule, or other publication for the state of Montana.

Section [2-4-307](#)(4), MCA, provides that "[a] rule originally adopting by reference any model code or rule provided for in subsection (1) may not adopt any later amendments or editions of the material adopted. Except as provided in subsection (6), each later amendment or edition may be adopted by reference only by following the rulemaking procedure required by this chapter."

The proposed rule would allow adoption of future changes to the Ballot Layout Guide without going through the Montana Administrative Procedures Act in potential contradiction with section [2-4-307](#), MCA.

FULL TEXT OF NOTICE: The full text of the proposal notice may be found online at <https://rules.mt.gov/gateway/ShowNoticeFile.asp?TID=11901>.

MAR NOTICE NUMBER: 44-2-267

AGENCY/BOARD: Secretary of State

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

SUBJECT: Determining A Valid Write-In Vote in Manually Counting and Recounting Paper Ballots – [House Bill No. 536 \(2023\)](#)

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

SUMMARY OF RULE(S): The Secretary of State proposes to amend ARM 44.3.2403, which implements amendments to section 13-10-211, MCA by [House Bill No. 536 \(2023\)](#). The proposed amendment deletes the same language as [House Bill No. 536](#).

NOTES: A public hearing will be held on November 29, 2023, at 1:00 p.m. in the Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana. The public comment period ends on December 1, 2023.

STAFF COMMENT: None.

FULL TEXT OF NOTICE: The full text of the proposal notice may be found online at <https://rules.mt.gov/gateway/ShowNoticeFile.asp?TID=11900>.

MAR NOTICE NUMBER: 44-2-265

AGENCY/BOARD: Secretary of State

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

SUBJECT: Third-Party Testing of Voting Systems – House Bill No. 173 (2023)

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 adopt a new rule. This rule implements [House Bill No. 173](#) (2023), which amended 13-17-103, MCA, requiring third-party testing of voting systems prior to their first use to validate the manufacturer's certification that the system is free of any modems or other unauthorized external communication devices. [House Bill No. 173](#) specifically provides the Secretary of State with the authority to adopt rules defining approved third-party testers and the testing process to validate the manufacturer's certification.

NOTES: A public hearing was held on October 16, 2023, at 11:00 a.m. in the Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana. The public comment period ended on October 20, 2023.

STAFF COMMENT: None.

FULL TEXT OF NOTICE: The full text of the proposal notice may be found online at https://rules.mt.gov/gateway/Cycle_Home.asp?CID=3700.

Office of the Commissioner of Political Practices:

MAR NOTICE NUMBER: 44-2-266

AGENCY/BOARD: Office of the Commissioner of Political Practices

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

SUBJECT: Contribution Limit Inflationary Increases

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

SUMMARY OF RULE(S): The Commissioner proposes to amend ARM 44.11.227, which implements section [13-37-216](#)(3), MCA, by providing statutory inflationary increases for contribution limits to candidates from individuals or political parties for the 2024 election cycle.

NOTES: A public hearing is not contemplated, and the public comment period ends on November 17, 2023.

STAFF COMMENT: None.

FULL TEXT OF NOTICE: The full text of the proposal notice may be found online at https://rules.mt.gov/gateway/Cycle_Home.asp?CID=3726.