

Sixty-second
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1162

Introduced by

Representative Keiser

Senator Klein

1 A BILL for an Act to create and enact section 28-32-08.2 of the North Dakota Century Code,
2 relating to fiscal notes for agency rules; to amend and reenact subsection 5 of section 28-32-03,
3 subsection 1 of section 28-32-10, and subsection 2 of section 28-32-18 of the North Dakota
4 Century Code, relating to notice of emergency rulemaking and the administrative rules
5 committee carrying over consideration of administrative rules; and to provide an effective date.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Subsection 5 of section 28-32-03 of the North Dakota Century
8 Code is amended and reenacted as follows:

9 5. The agency shall ~~take appropriate measures~~attempt to make interim final rules known
10 to ~~every person~~persons who the agency can reasonably be expected to believe may
11 ~~be affected by~~have a substantial interest in them. As used in this subsection,
12 "substantial interest" means an interest in the effect of the rules which surpasses the
13 common interest of all citizens. An agency adopting emergency rules shall comply with
14 the notice requirements of section 28-32-10 which relate to emergency rules and shall
15 provide notice to the chairman of the administrative rules committee of the emergency
16 status, declared effective date, and grounds for emergency status of the rules under
17 subsection 2. When notice of emergency rule adoption is received, the legislative
18 council shall publish the notice and emergency rules on its website.

19 **SECTION 2.** Section 28-32-08.2 of the North Dakota Century Code is created and enacted
20 as follows:

21 **Fiscal notes for administrative rules.**

22 When an agency presents rules for administrative rules committee consideration, the
23 agency shall provide a fiscal note or a statement in its testimony that the rules have no fiscal

1 effect. A fiscal note must reflect the effect of the rules changes on state revenues and
2 expenditures, including any effect on funds controlled by the agency.

3 **SECTION 3. AMENDMENT.** Subsection 1 of section 28-32-10 of the North Dakota Century
4 Code is amended and reenacted as follows:

5 1. An agency shall prepare a full notice and an abbreviated notice of rulemaking.

6 a. The agency's full notice of the proposed adoption, amendment, or repeal of a rule
7 must include a short, specific explanation of the proposed rule and the purpose of
8 the proposed rule, identify the emergency status and declared effective date of
9 any emergency rules, include a determination of whether the proposed
10 rulemaking is expected to have an impact on the regulated community in excess
11 of fifty thousand dollars, identify at least one location where interested persons
12 may review the text of the proposed rule, provide the address to which written
13 comments concerning the proposed rule may be sent, provide the deadline for
14 submission of written comments, provide a telephone number and post-office or
15 electronic mail address at which a copy of the rules and regulatory analysis may
16 be requested, and, in the case of a substantive rule, provide the time and place
17 set for each oral hearing. The agency's full notice must be filed with the
18 legislative council, and the agency shall request publication of an abbreviated
19 newspaper publication notice at least once in each official county newspaper
20 published in this state. The notice filed with the legislative council must be
21 accompanied by a copy of the proposed rules.

22 b. The abbreviated newspaper publication of notice must be in a display-type format
23 with a minimum width of one column of approximately two inches
24 [5.08 centimeters] and a depth of from three inches [7.62 centimeters] to four
25 inches [10.16 centimeters] with a headline describing the general topic of the
26 proposed rules. The notice must also include the telephone number or address to
27 use to obtain a copy of the proposed rules, identification of the emergency status
28 and declared effective date of any emergency rules, the address to use and the
29 deadline to submit written comments, and the location, date, and time of the
30 public hearing on the rules.

1 **SECTION 4. AMENDMENT.** Subsection 2 of section 28-32-18 of the North Dakota Century
2 Code is amended and reenacted as follows:

- 3 2. The administrative rules committee may find a rule void at the meeting at which the
4 rule is initially considered by the committee or may hold consideration of that rule for
5 one subsequent meeting. If no representative of the agency appears before the
6 administrative rules committee when rules are scheduled for committee consideration,
7 those rules are held over for consideration at the next subsequent committee meeting.
8 Rules are not considered initially considered by the committee under this subsection
9 until a representative of the agency appears before the administrative rules committee
10 when the rules are scheduled for committee consideration. If no representative of the
11 agency appears before the administrative rules committee meeting to which rules are
12 held over for consideration, the rules are void if the rules were adopted as emergency
13 rules and for rules not adopted as emergency rules the administrative rules committee
14 may ~~amend or~~ void the rules, allow the rules to become effective, or hold over
15 consideration of the rules to the next subsequent committee meeting. Within three
16 business days after the administrative rules committee finds that a rule is void, the
17 legislative council shall provide written notice of that finding and the committee's
18 specific finding under subdivisions a through f of subsection 1 to the adopting agency
19 and to the chairman of the legislative management. Within fourteen days after receipt
20 of the notice, the adopting agency may file a petition with the chairman of the
21 legislative management for review by the legislative management of the decision of
22 the administrative rules committee. If the adopting agency does not file a petition for
23 review, the rule becomes void on the fifteenth day after the notice from the legislative
24 council to the adopting agency. If within sixty days after receipt of the petition from the
25 adopting agency the legislative management has not disapproved by motion the
26 finding of the administrative rules committee, the rule is void.

27 **SECTION 5. EFFECTIVE DATE.** Sections 1 and 3 of this Act are effective for rules for
28 which the notice of rulemaking is filed with the legislative council after July 31, 2011. Sections 2
29 and 4 of this Act are effective for rules scheduled for administrative rules committee review after
30 July 31, 2011.