

SENATE FILE NO. SF0127

Administrative rules-legislative review and objection.

Sponsored by: Senator(s) Boner, Crago, Driskill, Hicks,
Hutchings and Kolb and Representative(s)
Andrew, Banks, Davis, Filer, Heiner, Lawley
and Neiman

A BILL

for

1 AN ACT relating to administrative procedure; requiring
2 legislative approval of major rules as specified;
3 specifying the process by which major rules may be
4 approved; amending the process for the enactment of
5 emergency rules and administrative rules; making conforming
6 amendments; specifying applicability; providing an
7 appropriation; and providing for effective dates.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 16-3-103.1 and 28-9-109 are created
12 to read:

13

1 **16-3-103.1. Adoption and ratification of major agency**
2 **rules; procedure; effective date.**

3

4 (a) Major agency rules shall be reviewed and
5 considered for ratification in accordance with all of the
6 following:

7

8 (i) After management council has determined that
9 a rule is a major agency rule, management council shall,
10 upon making its recommendation under W.S. 28-9-106(c),
11 provide a report to each member of the legislature that
12 includes:

13

14 (A) A copy of the major agency rule;

15

16 (B) A copy of the administrative rule
17 review accompanying the major agency rule;

18

19 (C) An explanation of why the rule was
20 determined to be a major agency rule;

21

1 (D) A list of any other related regulatory
2 actions associated with the same regulatory objective in
3 the major agency rule;

4

5 (E) The regulatory impact analysis prepared
6 for the major agency rule.

7

8 (ii) Upon receiving a major agency rule under
9 paragraph (i) of this subsection, the legislature shall
10 review the major agency rule within the time specified in
11 paragraph (iii) of this subsection and either ratify the
12 rule or reject the rule;

13

14 (iii) The legislature shall ratify or reject a
15 major agency rule by a vote of a majority of all the
16 members elected to each house voting separately during the
17 next regular or special legislative session after the rule
18 is received. For purposes of this paragraph, a rule
19 received in the last fifteen (15) days of a regular or
20 special legislative session may be considered for
21 ratification or rejection in the next regular or special
22 legislative session.

23

1 (b) Except as provided in subsection (h) of this
2 section, no major agency rule shall be effective until the
3 rule has been ratified by the legislature in accordance
4 with subsection (a) of this section or the governor has
5 declared that the major agency rule is an emergency rule in
6 accordance with subsection (e) of this section.

7

8 (c) Major agency rules ratified by the legislature
9 under this section shall be effective on the date of
10 ratification or, if a later effective date is specified in
11 the rule, the date specified in the rule.

12

13 (d) A major agency rule that the legislature fails to
14 ratify or for which a ratification vote has failed shall
15 not be effective and shall be void.

16

17 (e) If the governor finds that an emergency requires
18 a major agency rule to take effect before ratification
19 under this section, the governor may designate a major
20 agency rule as an emergency major agency rule. The governor
21 shall report to management council and the legislature on
22 the emergency major agency rule in accordance with
23 subsection (f) of this section. Emergency major agency

1 rules shall be effective upon the date that the governor
2 approves the rule under W.S. 16-3-103(d). Emergency major
3 agency rules approved under W.S. 16-3-103(d) shall:

4

5 (i) Continue to be in effect if the legislature
6 ratifies the emergency major agency rule in accordance with
7 this section;

8

9 (ii) Be void and no longer effective if the
10 legislature fails to ratify the rule at the next regularly
11 scheduled or special legislative session or if a vote to
12 ratify the rule has failed through a vote under subsection
13 (a) of this section;

14

15 (iii) In no event be effective for more than one
16 hundred twenty (120) days if the legislature has not
17 convened for session or otherwise not taken a vote on the
18 ratification of the rule, notwithstanding W.S. 16-3-103(b).

19

20 (f) Not later than five (5) days after declaring that
21 a major agency rule is an emergency major agency rule, the
22 governor shall submit a report that provides:

23

1 (i) Why an emergency exists that requires the
2 major agency rule to take effect before ratification, or
3 why a federal requirement or federal funding requires the
4 rule to be effective before ratification;

5

6 (ii) How the major agency rule otherwise
7 complies with statutory authority and legislative intent.

8

9 (g) Nothing in this section shall be construed to:

10

11 (i) Prohibit an agency from promulgating a rule
12 in response to the failure to ratify a major agency rule
13 under this section;

14

15 (ii) Limit the legislature from prohibiting the
16 implementation or enforcement of a rule under W.S.
17 28-9-107;

18

19 (iii) Expand or extend the governor's or any
20 agency's powers to promulgate rules in accordance with law;

21

1 (iv) Authorize the effectiveness or validity of
2 major agency rules beyond the times specified in this
3 section;

4

5 (v) Limit the legislature from convening a
6 special session for the purpose of reviewing, considering
7 and ratifying an emergency major agency rule.

8

9 (h) For rules that are new rules under W.S.
10 16-3-103(a)(i)(D) promulgated in response to enacted
11 legislation, the major agency rule may take effect without
12 ratification under this section until the next regular or
13 special legislative session, at which time the legislature
14 shall consider the rule as required by this section.

15

16 **28-9-109. Major agency rules; analysis and review.**

17

18 (a) The chief economist of the legislative service
19 office shall review each rule submitted under this act and
20 report the review to management council for management
21 council to determine whether the rule is a major rule.

22

1 (b) For each rule that may be a major agency rule,
2 the chief economist shall:

3

4 (i) Not later than fifteen (15) days after the
5 rule was submitted under W.S. 28-9-103(b), provide the
6 major agency rule to each member of the legislature;

7

8 (ii) Not later than the time specified in
9 subsection (e) of this section, complete a regulatory
10 impact analysis in accordance with subsections (c) and (d)
11 of this section.

12

13 (c) Each regulatory impact analysis of a rule that
14 may be a major agency rule under this section shall
15 include:

16

17 (i) A statement of need for the rule, provided
18 by the agency promulgating the rule;

19

20 (ii) The statutory authority for the
21 promulgation of the rule;

22

1 (iii) An examination of alternatives to the
2 enactment of the rule;

3

4 (iv) An evaluation of the costs and benefits for
5 the rule, including:

6

7 (A) Estimated primary or direct benefits
8 accruing as a result of the rule;

9

10 (B) Estimated cost savings or financial
11 benefits to the state and its residents and businesses;

12

13 (C) Estimated compliance costs for
14 regulated entities subject to the rule;

15

16 (D) Estimated secondary or indirect costs
17 associated with the rule;

18

19 (E) Estimated effect on state revenue;

20

21 (F) Estimated effect on state expenditures,
22 including estimated administrative expenses;

23

1 (G) Estimated opportunity costs. For
2 purposes of this subparagraph, the cost of compliance in
3 terms of any resulting removal of private capital from the
4 market must be included in the analysis;

5

6 (H) The sources consulted to complete the
7 analysis;

8

9 (J) Key assumptions made and sources of
10 uncertainty with the analysis;

11

12 (K) Any other information the director or
13 chief economist determines would be beneficial for
14 legislative consideration of the rule.

15

16 (d) Upon completing a regulatory impact analysis, the
17 chief economist shall provide the analysis to the
18 management council and shall make the analysis available to
19 each member of the legislature and to the public. Not later
20 than fifteen (15) days after receipt of the analysis, the
21 management council shall determine by majority vote of all
22 members of the management council whether the rule is a
23 major agency rule.

1

2 (e) The chief economist shall complete each
3 regulatory impact analysis:

4

5 (i) Not later than sixty (60) days after the
6 rule was submitted for review under W.S. 28-9-103(b), if
7 the rule is submitted at a time other than a time specified
8 in paragraph (ii) of this subsection;

9

10 (ii) As soon as reasonably practicable to ensure
11 consideration of the rule during the next legislative
12 session, if the rule was submitted for review within sixty
13 (60) days of the next legislative session or during a
14 legislative session.

15

16 (f) To the extent resources are available, the
17 council may direct the chief economist to perform a
18 regulatory impact analysis for any existing rule or other
19 proposed rule.

20

21 (g) The chief economist may request any information,
22 expertise or assistance from an agency promulgating a major
23 agency rule. Upon receiving a request under this

1 subsection, the agency shall provide all information and
2 assistance necessary for the chief economist to complete
3 the regulatory impact analysis required under this section.

4

5 **Section 2.** W.S. 16-3-101(b) by creating a new
6 paragraph (xiii) and by renumbering (xiii) as (xiv),
7 16-3-102(b), 16-3-103(a)(i) by creating a new subparagraph
8 (M), (b), (c) and (d)(intro), 16-3-104(b) by creating a new
9 paragraph (iii), 28-8-103, 28-9-101(a) by creating a new
10 paragraph (iv) and by amending and renumbering (iv) as (v),
11 28-9-104(a), (c)(ii) and by creating a new paragraph (iv)
12 and 28-9-106 are amended to read:

13

14 **16-3-101. Short title; definitions.**

15

16 (b) As used in this act:

17

18 (xiii) "Major agency rule" means a rule,
19 including an emergency rule, designated by management
20 council under W.S. 28-9-109 that will result in or is
21 likely to result in one (1) or more of the following:

22

1 (A) An annual impact on the economy of
2 Wyoming that will result in direct or indirect costs of not
3 less than one hundred thousand dollars (\$100,000.00);
4

5 (B) Significant adverse effects on
6 competition, employment, investment, productivity or
7 innovation in the state, including significant adverse
8 effects on individual industries or regions within Wyoming;
9

10 (C) Significant changes in social and
11 cultural relations among citizens, including significant
12 impacts on particular religious, ethnic, racial or gender
13 populations.
14

15 ~~(xiii)~~(xiv) "This act" means W.S. 16-3-101
16 through 16-3-115.
17

18 **16-3-102. General rulemaking requirements; assistance**
19 **and authority of attorney general.**
20

21 (b) No agency rule, order or decision is valid or
22 effective against any person or party, nor may it be
23 invoked by the agency for any purpose, until it has been

1 filed with the registrar of rules and made available for
2 public inspection as required by this act. No major agency
3 rule shall be valid until the rule has been ratified or is
4 otherwise authorized to take effect under W.S. 16-3-103.1.

5 This subsection does not apply to orders or decisions in
6 favor of any person or party with actual knowledge of the
7 rule, order or decision.

8

9 **16-3-103. Adoption, amendment and repeal of rules;**
10 **notice; hearing; emergency rules; proceedings to contest;**
11 **review and approval by governor.**

12

13 (a) Prior to an agency's adoption, amendment or
14 repeal of all rules other than interpretative rules or
15 statements of general policy, the agency shall:

16

17 (i) Give at least forty-five (45) days notice of
18 its intended action. Notice shall be mailed to all persons
19 making timely requests of the agency for advanced notice of
20 its rulemaking proceedings and to the attorney general, the
21 secretary of state's office as registrar of rules, and the
22 legislative service office if a state agency. The agency
23 shall submit a copy of the proposed rules, in a format

1 conforming to any requirements prescribed pursuant to
2 subsection (f) of this section, with the notice given to
3 the legislative service office. The notice shall include:

4
5 (M) If the rule is or could be a major
6 agency rule, a statement that the rule is or may be a major
7 agency rule and any information necessary for the
8 completion of the regulatory impact analysis required under
9 W.S. 28-9-109.

10
11 (b) When an agency finds that an emergency requires
12 the agency to proceed without notice or opportunity for
13 hearing required by subsection (a) of this section, it may
14 adopt emergency rules. Subject to W.S. 16-3-103.1, an
15 emergency rule is effective when filed. A state agency
16 emergency rule shall bear the endorsement of the governor's
17 concurrence on the finding of emergency before the
18 registrar of rules accepts the rule for filing. The rule so
19 adopted shall be effective for no longer than one hundred
20 twenty (120) days but the adoption of an identical rule
21 under W.S. 16-3-103(a) or of an emergency rule under this
22 subsection is not precluded. In no case shall identical or
23 substantially similar emergency rules be effective for a

1 total period of more than two hundred forty (240) days. A
2 local agency may proceed with the emergency rule when
3 notice of the emergency is filed with the local registrar
4 of rules.

5

6 (c) No rule is valid unless submitted, filed and
7 adopted in substantial compliance with this section and, if
8 the rule is or could be a major agency rule, W.S.
9 16-3-103.1. A proceeding to contest any rule on the ground
10 of noncompliance with the procedural requirements of this
11 section ~~must~~ or the requirements of W.S. 16-3-103.1 shall
12 be commenced within two (2) years from the effective date
13 of the rule.

14

15 (d) No state agency rule or any amendment, repeal,
16 modification or revision of the rule may be filed with the
17 registrar of rules unless the rule has been submitted to
18 the governor for review and the governor has approved and
19 signed the rule. Except in the case of emergency rules and
20 rules adopted by the game and fish commission fixing
21 general hunting or fishing regulations, season or bag
22 limits or establishing hunting areas, the governor shall
23 not approve any rule until the date of receipt of the

1 legislative management council's recommendation under W.S.
2 28-9-106(a) or until forty (40) days after the rule is
3 filed with the legislative service office pursuant to W.S.
4 28-9-103(b), whichever is sooner. During the process of
5 approving rules, the governor may disapprove any portion of
6 a rule not conforming to paragraphs (d)(i), (ii) or (iii)
7 of this section by clearly indicating the portion of the
8 rule disapproved and the basis for the disapproval. Major
9 agency rules approved by the governor under this subsection
10 shall be subject to ratification under W.S. 16-3-103.1.
11 Only those portions of a rule approved by the governor
12 shall be filed with the registrar of rules as provided by
13 W.S. 16-3-104(a). Any portion of a rule disapproved by the
14 governor shall be returned to the agency and shall be null
15 and void and shall not be filed, implemented or enforced.
16 The governor shall report his disapproval of any rule or
17 portion thereof to the management council within fifteen
18 (15) days. The governor shall not approve any rule or any
19 amendment, repeal, modification or revision of the rule
20 unless it:

21

1 **16-3-104. Filing of copies of rules; permanent**
2 **register; effective dates; manner of preparation; advice**
3 **and assistance of attorney general.**

4
5 (b) Each rule and any amendment or repeal adopted
6 after June 1, 1982 is effective after filing in accordance
7 with subsection (a) of this section and W.S. 28-9-108
8 except:

9
10 (iii) Major agency rules, whether a regular rule
11 or an emergency rule, shall be effective in accordance with
12 W.S. 16-3-103.1.

13
14 **28-8-103. Director and staff.**

15
16 The management council shall appoint by majority vote a
17 director of the office. The director, subject to the prior
18 approval of the management council, may appoint assistant
19 directors. The director shall appoint such professional,
20 technical and clerical staff as necessary to perform the
21 functions assigned to the office. The director shall
22 appoint a chief economist to perform the functions assigned
23 under W.S. 28-8-109. The director and staff shall be

1 selected without reference to political affiliation and
2 shall serve at the pleasure of the appointing authority.
3 They shall be paid salaries and receive necessary expenses
4 as determined by the management council.

5

6 **28-9-101. Definitions.**

7

8 (a) As used in this act:

9

10 (iv) "Major agency rule" means as defined by
11 W.S. 16-3-101(b)(xiii);

12

13 (iv)(v) "This act" means W.S. 28-9-101 through
14 ~~28-9-108~~ 28-9-109.

15

16 **28-9-104. Review procedure; time for review; criteria**
17 **for review.**

18

19 (a) The legislative service office shall review rules
20 submitted under W.S. 28-9-103(b) and report its findings to
21 the council. The legislative service office shall review
22 new rules and include therein any comments from the primary
23 sponsor of the legislation, the chairman of the interim or

1 standing committee which sponsored or acted upon the
2 legislation authorizing the new rules and any other
3 legislator submitting comments, and shall report their
4 findings to the council. The legislative service office
5 shall review rules that may be major agency rules in
6 accordance with W.S. 28-9-109. The report required under
7 this subsection shall be submitted to the council:

8
9 (i) Within fifteen (15) days after the rules
10 were submitted under W.S. 28-9-103(b); ~~or~~

11
12 (ii) Except as provided in paragraph (iii) of
13 this subsection, if the legislature is in session at the
14 time the report would otherwise be due under paragraph (i)
15 of this subsection, then within ten (10) days after the
16 adjournment of the session; ~~or~~

17
18 (iii) Rules that may be major agency rules for
19 which the report would be due while the legislature is in
20 session shall be submitted to the council by the deadline
21 specified in paragraph (i) of this subsection.

22

1 (c) When reviewing a rule of an agency, the council
2 shall determine whether the rule:

3
4 (ii) Has been adopted in accordance with all
5 applicable and statutory requirements of law; ~~and~~

6
7 (iv) Is or appears to be a major agency rule. If
8 the rule is determined by the council to be a major agency
9 rule, the council shall make a recommendation on the
10 enactment of the rule for consideration by the legislature
11 in accordance with W.S. 16-3-103.1.

12
13 **28-9-106. Council recommendations to the agency and**
14 **the legislature; time.**

15
16 (a) Subject to subsection (c) of this section, the
17 council shall submit its approval or its recommendations
18 for amendment or rescission to the governor and to the
19 agency which submitted the rule.

20
21 (b) The governor, within fifteen (15) days after
22 receiving any council recommendation, shall either order
23 that the rule be amended or rescinded in accordance with

1 the council's recommendation or file with the council in
2 writing his objections to the recommendation. This
3 subsection shall not apply to major agency rules.

4

5 (c) For major agency rules, the council shall submit
6 its recommendations for approval, amendment or rescission
7 to the legislature for ratification under W.S. 16-3-103.1.

8

9 **Section 3.** This act shall apply to all rules for
10 which notice is given under W.S. 16-3-103(a)(i) on and
11 after July 1, 2026.

12

13 **Section 4.**

14

15 (a) There is appropriated four hundred thousand
16 dollars (\$400,000.00) from the general fund to the
17 legislative service office for the purposes of hiring not
18 more than two (2) full time equivalent employees to perform
19 the functions specified in this act. Notwithstanding W.S.
20 9-2-1008, 9-2-1012(e) and 9-4-207, this appropriation shall
21 remain in effect and shall not lapse or revert at the end
22 of the fiscal biennium except upon further legislative
23 action.

1

2 (b) The legislative service office may take any
3 action necessary to implement this act before July 1, 2026,
4 including the hiring of positions to implement this act.

5

6 **Section 5.**

7

8 (a) Except as provided in subsection (b) of this
9 section, this act is effective July 1, 2026.

10

11 (b) Sections 4 and 5 of this act are effective
12 immediately upon completion of all acts necessary for a
13 bill to become law as provided by Article 4, Section 8 of
14 the Wyoming Constitution.

15

16

(END)