

E AND R AMENDMENTS TO LB719

Introduced by Murante, 49, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 84-907.04, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 84-907.04 (1) At the time an agency finalizes a proposed
6 rule or regulation and prior to submission to the Secretary of
7 State, Attorney General, and Governor, the agency shall attach to
8 the proposed rule or regulation a concise explanatory statement
9 containing:

10 (a) Its reasons for adopting the rule or regulation;

11 (b) An indication of any change between the text of
12 the proposed rule or regulation contained or referenced in the
13 published notice and the text of the rule or regulation to be
14 adopted, with the reasons for any change; and

15 (c) When procedural rules differ from the model rules,
16 the agency's reasons why relevant portions of the model rules were
17 impracticable under the circumstances.

18 (2) Only the reasons contained in the concise explanatory
19 statement may be used by an agency as justifications for the
20 adoption of the rule or regulation in any proceeding in which its
21 validity is at issue.

22 (3) The agency shall also attach to the proposed rule
23 or regulation a written report that includes a summary of the

1 testimony offered at the public hearing and that lists any
2 specific issues or questions that were presented by individuals
3 or representatives of organizations at the hearing or in written
4 testimony submitted as part of the public hearing process. The
5 report shall also include a response from the agency proposing
6 the regulatory change to the questions and issues that were
7 presented by individuals or representatives of organizations at the
8 hearing or in written testimony submitted as part of the public
9 hearing process. The written report shall also be submitted to
10 the Executive Board of the Legislative Council. The chairperson
11 of the executive board or committee staff member of the executive
12 board shall refer each written report received pursuant to this
13 subsection for review (a) to the chairperson of the standing
14 committee of the Legislature which has subject matter jurisdiction
15 over the issue involved in the rule or regulation or which
16 has traditionally handled the issue and (b) if practicable, to
17 the member of the Legislature who was the primary sponsor of a
18 legislative bill that granted the agency the rulemaking authority
19 if the member is still serving or, if the legislative bill was
20 amended to include the rulemaking authority, to the member of
21 the Legislature who was the primary sponsor of the amendment that
22 granted rulemaking authority if the member is still serving.

23 Sec. 2. Section 84-907.10, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 84-907.10 ~~(1) After an agency submits a copy of each~~
26 ~~amendment or rule or regulation pursuant to section 84-907.06, or~~
27 ~~any time thereafter, (1) If any member of the Legislature who feels~~

1 aggrieved by a rule or regulation or by the proposed adoption,
2 amendment, or repeal of a rule, or regulation pursuant to section
3 84-907.06 or believes that ~~the~~ (a) a rule or regulation or the
4 adoption, amendment, rule, or regulation or repeal of a rule or
5 regulation is in excess of the statutory authority or jurisdiction
6 of the agency, is unconstitutional, ~~or~~ is inconsistent with the
7 legislative intent of the authorizing statute, or creates an undue
8 burden in a manner that significantly outweighs its benefit to
9 the public, (b) circumstances have changed since the passage of
10 the statute which a rule or regulation implements, or (c) a rule
11 or regulation or an amendment or repeal overlaps, duplicates, or
12 conflicts with federal, state, or local laws, rules, regulations,
13 or ordinances, the member may file a complaint with the Chairperson
14 of the Executive Board of the Legislative Council. The complaint
15 shall explain in detail the member's contentions.

16 (2) The chairperson of the executive board or a committee
17 staff member of the executive board shall refer the complaint
18 to the chairperson of the standing committee of the Legislature
19 which has subject matter jurisdiction over the issue involved in
20 the rule or regulation or which has traditionally handled the
21 issue and, if practicable, to the member of the Legislature who
22 was the primary sponsor of the legislative bill that granted
23 the agency the rulemaking authority if the member is still
24 serving or, if the legislative bill was amended to include the
25 rulemaking authority, to the primary sponsor of the amendment
26 granting rulemaking authority if the member is still serving.

27 (3) The standing committee and primary sponsor of the

1 legislative bill or amendment granting rulemaking authority may
2 consider the complaint and, if such committee or primary sponsor
3 concludes that the complaint has merit, then such committee or
4 primary sponsor may request a written response from the agency
5 which shall include, but not be limited to (a) a description of the
6 amendment or rule or regulation, (b) when applicable, a description
7 of the legislative intent of the statute granting the agency
8 rulemaking authority and a statement explaining how the rule or
9 regulation or the adoption, amendment, or repeal of the ~~ex~~ rule or
10 regulation is within the authority or jurisdiction of the agency,
11 is constitutional, is consistent with legislative intent, or is not
12 an undue burden, (c) if the description required in subdivision (b)
13 of this subsection is inapplicable, an explanation as to why the
14 rule or regulation or the adoption, amendment, or repeal ~~ex rule ex~~
15 ~~regulation~~ is necessary, and (d) an explanation of the extent to
16 which and how any public comment was taken into consideration by
17 the agency with respect to the rule or regulation or the adoption,
18 amendment, or repeal. ~~ex rule ex regulation.~~ The agency shall
19 respond within sixty days of a request, and such response shall be
20 a public record.

21 (4) Nothing in this section shall be construed to
22 prohibit the adoption or promulgation of the rule or regulation
23 in accordance with other ~~sections~~ provisions of the Administrative
24 Procedure Act.

25 Sec. 3. Original sections 84-907.04 and 84-907.10,
26 Reissue Revised Statutes of Nebraska, are repealed.

27 2. On page 1, strike lines 2 through 4 and insert

1 "sections 84-907.04 and 84-907.10, Reissue Revised Statutes of
2 Nebraska; to require a report and referral of the report regarding
3 proposed rules and regulations; to change provisions regarding
4 complaints by members of the Legislature relating to rules and
5 regulations; and to repeal the original sections."