

One Hundred Fourth Legislature - Second Session - 2016

Introducer's Statement of Intent

LB867

Chairperson: Senator John Murante

Committee: Government, Military and Veterans Affairs

Date of Hearing: February 04, 2016

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 867 is intended to implement Legislative Performance Audit Committee recommendations from the 2015 performance audit on the Administrative Procedure Act. The purpose of LB 867 is to provide clarity to agencies about policies that must be promulgated and to ensure that the public plays a role in promulgating rules.

LB 867 amends the definition of rule or regulation and identifies three types of agency documents that are not rules: internal procedural documents used to guide agency staff on organization and operations, guidance documents, and forms and their instructions. Although agencies are encouraged to provide information to the public via guidance documents, they cannot be used to bind the public and are not to be given judicial deference.

The bill exempts style, format, and citation changes from notice and hearing requirements. Security policies and procedures that, if released, would endanger public safety are also exempted.

LB 867 also creates short-term emergency rules, which can be adopted outside of normal promulgation procedures. If an agency wants to make an emergency rule permanent, they must go through the full promulgation process.

The bill also makes two changes to Department of Correctional Services' (DCS) statutes. It updates terminology in existing statute to ensure terminology is consistent with the changes LB 867 makes to the Administrative Procedure Act. It also adds language to require DCS regulations for circumstances in which inmates are outside of a correctional facility.

Finally, LB 867 updates requirements for the Secretary of State's office to allow more efficient processes.

Principal Introducer: _____

Senator Dan Watermeier, Chairperson
Legislative Performance Audit Committee