

HOUSE BILL 46

HOUSE BILL 46

Title:

AN ACT to amend W.S. 9-4-101, 9-4-102(b) and (c), 9-4-103(a) introductory paragraph and (i), (b) and (d), 9-4-104(a), (b) introductory paragraph and (ii) and by creating a new paragraph (iii) and (c) and 9-4-105; and to repeal W.S. 9-4-104(d) relating to the Wyoming Administrative Procedure Act; providing definitions; creating state and local registrars of rules; providing for state and local registration; providing for preparation and distribution of rules in a format established in cooperation with the legislative service office; modifying the filing procedure to accommodate state and local registration; conforming state agency rule effectiveness to the requirements of W.S. 28-9-101 through 28-9-108; providing an appropriation; and providing for an effective date.

Introduced by:

Eileen Crowley Matthews Hansen

DATE	ACTION	DATE	ACTION
JAN 14 1981	READ FIRST TIME	JAN 24 81	ENGROSSED
	REFERRED TO COM. NO. 1	JAN 26	Sent to Senate
	DELIVERED TO COM. NO. 1	1-26-81	Received from House
JAN 16 1981	RETURNED		Read first time
	Unanimously Adopted and in Pass 10 days		Referred to Com. No. 1
	RE-REF. & P. COM. NO. 2		Delivered to Com. No. 1
JAN 21 1981	RETURNED	2-2-81	STANDING COMM. REPORT
	RECOMMENDED DO.....PASS 6 days		RECOMMENDED DO PASS AS AMENDED
JAN 22 1981	CONSIDERED IN COM. OF WHOLE		
	Stand of Com. Amendment 11846 H51/A		
	ADOPTED		
	Com. of Whole Amendment 11846 H41/A		
	ADOPTED		
	Amended as follows 11846 H42/A		
	ADOPTED		
	RECOMMENDED DO.....PASS		
JAN 23 1981	READ SECOND TIME		
	Amended as follows 11846 H21/A		
	ADOPTED		
JAN 24 1981	READ THIRD TIME		
	PASSED		
	11846 H21/A Passed 21 Absent 2		
	Sent to Senate		
1-24-81	Received - Sent to HSD		
	for engrossing		

WB46ThurdayDate 1/24/81

Roll Call of the House

of the FORTY-SIXTH LEGISLATURE

of Wyoming

	Ayes	Noes	Excused	Absent		Ayes	Noes	Excused	Absent
63 ARNOLD		✓			30 PHELAN	✓			
62 ASAY	✓				29 PROSSER	✓			
61 BRYANT	✓				28 PUGH	✓			
60 BUDD		✓			27 RATLIFF		✓		
59 BURNETT					26 ROTH	✓			
58 BURNS	✓				25 SALISBURY	✓			
57 BYRD	✓				24 SANDERS		✓		
56 CHAMBERLAIN	✓				23 SCHWOPE	✓			
55 CROSS		✓			22 SCOTT, C	✓			
54 CROWLEY	✓				21 SCOTT, D.	✓			
53 CURRY		✓			20 SHREVE	✓			
52 DONLEY		✓			19 SIDI	✓			
51 DUSL	✓				18 SIMONS		✓		
50 EDWARDS	✓			⊗	17 SIMPSON	✓			
49 ESKENS	✓				16 SMITH		✓		
48 GETTER		✓			15 SORENSEN		✓		
47 HANSEN	✓				14 STAUFFER		✓		
46 HEMMERT		✓			13 STEWART		✓		
45 JENSEN		✓			12 STRAND	✓			
44 JONES	✓				11 TARTER	✓			
43 KINNISON	✓				10 THOMPSON		✓		
42 LARSON, T.	✓				9 THORSON	✓			
41 LUMMIS	✓				8 TIPTON	✓			
40 MacMILLAN	✓				7 TROWBRIDGE	✓			
39 MARTON		✓			6 URBIGKIT	✓			
38 McCARTHY	✓				5 VINICH <i>CP</i>			✓	
37 McILVAIN	✓				4 WALLIS <i>CP</i>			✓	
36 MEENAN		✓			3 WIEDERSPAHN	✓			
35 MICHELI		✓			2 WINNINGER	✓			
34 MICHIE	✓				1 MR. SPEAKER	✓			
33 MURPHY	✓				PRESENT				
32 ODDE	✓								
31 PERRY		✓							

AYES 40
 NOES 20
 EXCUSED 2
 ABSENT 2
 TOTAL 62
 LESS 22
40

THE LEGISLATURE OF THE STATE OF WYOMING

House of Representatives

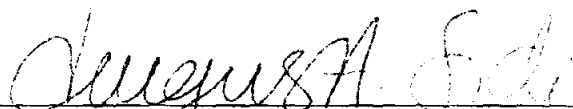
Cheyenne, January 20, 19 81

Mr. Speaker:

Your Committee No. 2 on Appropriationsto whom was referred HB No. 46

respectfully reports same back to the House with the recommendation that IT DO PASS

AYES:

JONES
URBICKIT
LARSON
BUDD
SIMPSON
SIDI

JACK SIDI Chairman

THE LEGISLATURE OF THE STATE OF WYOMING

House of Representatives

Cheyenne, January 14, 1981

HB 46 H-11
Mr. Speaker:

Your Committee No. 1 on JUDICIARY

to whom was referred H. E. No. 46

respectfully reports same back to the House with the recommendation that it
DO PASS with the following amendments:

Page 6 - line 11 delete "MANAGEMENT COUNCIL" and insert "LEGISLATIVE
SERVICE OFFICE".

Page 6 - line 18 delete "OR LOCAL".

Page 7 - line 23 delete "NORMALLY".

Page 8 - line 1 after "REQUIRED" insert "BY PARAGRAPH (a) (1) OF THIS SECTION".

Page 8 - line 16 delete "MANAGEMENT COUNCIL" and insert "LEGISLATIVE
SERVICE OFFICE".

Page 11 - line 7 strike "such rules" and insert "THE PRESCRIBED FORM".

Page 12 - line 12 after the first "OF" insert "ANY";
delete "AGENCY" and insert "AGENCY'S".

Page 12 - line 18 after the "2" insert "AND".

Page 13 - line 6 delete "SECRETARY OF" after "STATE" insert "REGISTRAR
OF RULES".

Page 13 - line 8 after "EACH" insert "RULE"
delete "SECRETARY OF" after "STATE" and insert "REGISTRAR
OF RULES".

AYESNOESEXCUSED

Chamberlain
Hansen
Lummis
McCarthy
Odde
Scott
Tipton
Trowbridge
Wiederspahn
Crowley

0

0

Ellen Crowley
Ellen Crowley

Chairman

ENGROSSED

1981

STATE OF WYOMING

81LS0-175/eng

HOUSE BILL NO. 46

Filing of administrative rules.

Sponsored by: JOINT JUDICIARY INTERIM COMMITTEE

A BILL

for

1 AN ACT to amend W.S. 9-4-101, 9-4-102(b) and (c),
2 9-4-103(a) introductory paragraph and (i), (b) and (d),
3 9-4-104(e), (b) introductory paragraph and (ii) and by
4 creating a new paragraph (iii) and (c) and 9-4-105; and to
5 repeal W.S. 9-4-104(d) relating to the Wyoming Administra-
6 tive Procedure Act; providing definitions; creating state
7 and local registrars of rules; providing for state and
8 local registration; providing for preparation and distri-
9 bution of rules in a format established in cooperation
10 with the legislative service office; modifying the filing
11 procedure to accommodate state and local registration;

1 conforming state agency rule effectiveness to the require-
2 ments of W.S. 28-9-101 through 28-9-108; providing an
3 appropriation; and providing for an effective date.

4 Be It Enacted by the Legislature of the State of Wyoming:

5 Section 1. W.S. 9-4-101, 9-4-102(b) and (c),
6 9-4-103(a) introductory paragraph and (i), (b) and (d),
7 9-4-104(a), (b) introductory paragraph and (ii) and by
8 creating a new paragraph (iii) and (c) and 9-4-105 are
9 amended to read:

10 9-4-101. Citation of act; definitions.

11 (a) This act MEANS W.S. ~~2-4-101~~ THROUGH ~~9-4-115~~ AND
12 may be cited as the Wyoming Administrative Procedure Act.

13 (b) As used in this act:

14 (i) "Agency" means any authority, bureau,
15 board, commission, department, division, officer or
16 employee of the state, a county, city or town or other
17 political subdivision of the state, except the governing
18 body of a city or town, the state legislature and the
19 judiciary;

20 (ii) "Contested case" means a proceeding
21 including but not restricted to ratemaking, price fixing

1 and licensing, in which legal rights, duties or privileges
2 of a party are required by law to be determined by an
3 agency after an opportunity for hearing;

4 (iii) "License" includes the whole or part of
5 any agency permit, certificate, approval, registration,
6 charter or similar form of permission required by law, but
7 it does not include a license required solely for revenue
8 purposes;

9 (iv) "Licensing" includes the agency process
10 respecting the grant, denial, renewal, revocation, suspen-
11 sion, annulment, withdrawal or amendment of a license;

12 (v) "LOCAL AGENCY" MEANS ANY AGENCY ESTAB-
13 LISHED OR AUTHORIZED BY LAW WITH RESPONSIBILITIES LIMITED
14 TO LESS THAN STATEWIDE JURISDICTION, EXCEPT THE GOVERNING
15 BODY OF A CITY OR TOWN;

16 (vi) "OFFICIAL PUBLICATION" IS THE TEXT AND
17 EFFECTIVE DATES OF REGISTERED RULES IN A COMPILED, INDEXED
18 AND PRINTED FORM AS PRESCRIBED BY THE REGISTRAR OF RULES
19 AVAILABLE FOR DISTRIBUTION OR SALE BY THE STATE OR ANY
20 POLITICAL SUBDIVISION OF THE STATE;

21 (vii) "Party" means each person or agency
22 named or admitted as a party, or properly seeking and

1 entitled as of right to be admitted as a party;

2 ~~(vii)~~(viii) "Person" means any individual,
3 partnership, corporation, association, municipality,
4 governmental subdivision or public or private organization
5 of any character other than an agency;

6 (ix) "REGISTRAR OF RULES" FOR STATE AGENCY
7 RULES IS THE SECRETARY OF STATE. "REGISTRAR OF RULES" FOR
8 LOCAL AGENCY RULES IS THE COUNTY CLERK OF THE COUNTY IN
9 WHICH THE RULE IS TO BE EFFECTIVE;

10 (x) "REGISTRATION" IS EVIDENCED BY THE FILE
11 STAMP OF THE PROPER REGISTRAR OF RULES, DATED AND SIGNED,
12 ON AN ORIGINAL OF A RULE AND MEANS THAT THE RULE HAS BEEN
13 ACCEPTED FOR PERMANENT REGISTRY IN THE OFFICE OF THE
14 REGISTRAR WHERE IT IS AVAILABLE FOR OFFICIAL PUBLICATION
15 AND PUBLIC INSPECTION UNTIL LAWFULLY AMENDED OR RESCINDED;

16 ~~(viii)~~(xi) "Rule" means--each IS AN agency
17 statement of general applicability that implements, OR
18 interprets and prescribes law, policy or ordinances of
19 cities and towns, or describes the organization, proce-
20 dures, or practice requirements of any AN agency. The term
21 includes the amendment or repeal of a prior rule, but does
22 not include:

1 (A) Statements concerning only the
2 internal management of an agency and not affecting private
3 rights or procedures available to the public; ~~▼-or~~

4 (B) Rulings OR DECISIONS issued pursuant
5 to ~~section--6-of-this-act~~ W.S. 9-4-106 or 23-1-302(a)(i)
6 AND (xviii);

7 (C) Intraagency memoranda; ~~▼-or~~

8 (D) Agency decisions and findings OR
9 DECISIONS in contested cases; ~~▼-or~~

10 (E) Rules, DIRECTIVES OR ORDERS concern-
11 ing the use of public roads or facilities which are indi-
12 cated to the public by ~~means-of~~ signs and signals; ~~▼-or~~

13 (F) Ordinances of cities and towns; ~~▼~~

14 (G) OPINIONS OF THE ATTORNEY GENERAL.

15 (xiii) "STATE AGENCY" MEANS ANY AGENCY WITH
16 STATEWIDE RESPONSIBILITIES ESTABLISHED BY LAW OR AUTHOR-
17 IZED BY STATUTE.

18 9-4-102. Rules of practice to be adopted and made
19 available for public inspection; final orders, decisions,
20 etc., to be made available to public; rules, etc., invalid

1 until filed, made available to public and submitted to
2 legislature if state agency; legal assistance of attorney
3 general.

4 (b) No agency rule ~~or order or decision~~ is valid or
5 effective against any person or party, nor may it be
6 invoked by the agency for any purpose, until it has been
7 filed with the ~~secretary of state and~~ REGISTRAR OF RULES,
8 made available for public inspection as herein required.
9 ~~This provision is not applicable as to orders or decisions~~
10 ~~in favor of any person or party who has actual knowledge~~
11 ~~thereof.~~ BY THIS ACT, AND IF A STATE AGENCY RULE, UNTIL
12 ALSO SUBMITTED TO THE LEGISLATIVE SERVICE OFFICE FOR
13 LEGISLATIVE REVIEW IN ACCORDANCE WITH W.S. 28-9-101
14 THROUGH 28-9-108.

15 (c) ~~In formulating rules of practice as required by~~
16 ~~this section, each agency may request the assistance of~~
17 ~~the attorney general and upon such request the attorney~~
18 ~~general shall assist such agency or agencies in the pre-~~
19 ~~paration of rules of practice.~~ UPON REQUEST OF ANY STATE
20 AGENCY THE ATTORNEY GENERAL SHALL PROVIDE LEGAL ASSISTANCE
21 IN FORMULATING REQUIRED RULES AND REGULATIONS.

22 9-4-103. Notice of adoption, etc., of rule; hearing
23 on objections; emergency rules; contesting rules on

1 grounds of noncompliance with section; approval of legis-
2 lature and governor required of state agency rule prior to
3 filing.

4 (a) Prior to an agency's adoption, amendment or
5 ~~repeal~~ RESCISSION of all rules other than interpretative
6 rules or statements of general policy the agency shall:

7 (i) Give at least twenty (20) days notice of
8 its intended action. The notice shall include a statement
9 of either the terms or substance of the proposed rule or a
10 description of the subjects and issues involved, and of
11 the time when, the place where, and the manner in which
12 interested persons may present their views ~~thereon~~ ON THE
13 INTENDED ACTION. The notices shall be mailed to the attor-
14 ney general, TO the legislative service office IF A STATE
15 AGENCY, and to all persons who have made timely requests
16 of the agency for advanced notice of its rulemaking pro-
17 ceedings;

18 (b) ~~If an agency finds that an emergency exists, and~~
19 ~~such a finding is concurred in by the governor by written~~
20 ~~endorsement--or--the original copy of a proposed rule, the~~
21 ~~rule may be adopted and become effective immediately--upon~~
22 ~~its--being--filed--in the office of the secretary of state~~
23 ~~and submitted to the legislative service office.~~ WHEN AN

1 AGENCY FINDS THAT AN EMERGENCY REQUIRES THE AGENCY TO PRO-
2 CEED WITHOUT NOTICE OR OPPORTUNITY FOR HEARING REQUIRED BY
3 PARAGRAPH ~~(b)(1)~~ (i) OF THIS SECTION, IT MAY ADOPT EMERGENCY
4 RULES. AN EMERGENCY RULE IS EFFECTIVE WHEN FILED. A STATE
5 AGENCY EMERGENCY RULE SHALL BEAR THE ENDORSEMENT OF THE
6 GOVERNOR'S CONCURRENCE IN THE FINDING OF EMERGENCY BEFORE
7 THE REGISTRAR OF RULES MAY ACCEPT THE RULE FOR FILING. The
8 rule so adopted may SHALL be effective for a period no
9 longer than one hundred twenty (120) days, but the adop-
10 tion of an identical rule under W.S. 23-9-276~~21~~ (a)(i) OF
11 THIS SECTION is not precluded. A LOCAL AGENCY MAY PROCEED
12 WITH THE EMERGENCY RULE WHEN NOTICE OF THE EMERGENCY IS
13 FILED WITH THE LOCAL REGISTRAR OF RULES.

14 (d) ~~Subsequent to May 27, 1977,~~ No STATE AGENCY rule
15 or any amendment, ~~rescind~~ RESCISSION, modification or revi-
16 sion of the ~~same~~ RULE may be filed with the secretary of
17 state unless ~~it~~ THE RULE has been submitted to:

18 (i) THE LEGISLATIVE SERVICE OFFICE FOR LEGIS-
19 LATIVE REVIEW IN ACCORDANCE WITH W.S. 23-9-101 THROUGH
20 28-9-108; AND

21 (iii) The governor for review, ~~and approval,~~
22 and the governor has APPROVED AND signed the ~~same~~ RULE.
23 The governor shall not approve any rule or any amendment,

1 ~~repeat~~ RESCISSION, modification or revision of the rule,
2 unless it:

3 ~~(i)~~ (A) Is within the scope of the statutory
4 authority delegated to the adopting agency;

5 ~~(ii)~~ (B) Appears to be within the scope of
6 the legislative purpose of the statutory authority; and

7 ~~(iii)~~ (C) Has been adopted in compliance with
8 the procedural requirements of the Wyoming Administrative
9 Procedure Act. ~~For the purposes of this subsection, an~~
10 "agency" means any authority, bureau, board, commission,
11 department, division, officer or employee of the state,
12 excluding the state legislature and the judiciary. THIS
13 ACT.

14 9-4-104. Filing rules with registrar of rules; state
15 agency submission to legislative service office; official
16 publication of rules; effective date of rules; exceptions;
17 form of rules.

18 (a) Each agency shall file forthwith in the office
19 of the ~~secretary of state~~ REGISTRAR OF RULES AND SUBMIT TO
20 THE LEGISLATIVE SERVICE OFFICE IF A STATE AGENCY, a certi-
21 fied copy of each rule adopted by it, ~~including all~~
22 ~~rules existing on the effective date of the act.~~ There

1 shall be noted upon ~~such certificate~~ THE RULES a citation
2 of the ~~authority--by--which--it--or--any--part--of--it--was~~
3 ~~adopted--The--secretary--of--state~~ SPECIFIC STATUTORY AUTHOR-
4 IZATION FOR THE RULES. EACH REGISTRAR OF RULES shall keep
5 ~~a--permanent--register~~ AN OFFICIAL PUBLICATION of the rules
6 open to public inspection.

7 (b) Each rule and any amendment or ~~repeat--thereof~~
8 RESCISSION adopted after ~~March--28--1975~~ JUNE 2, 1981 is
9 effective after filing in accordance with subsection (a)
10 of this section and W.S. 28-89 28-9-108 except:

11 (ii) Where the agency finds that an emergency
12 exists, and such finding is concurred in by the governor,
13 ~~---in--case--of--such--emergency--~~ such a rule OR amendment or
14 ~~repeat~~ RESCISSION thereof may become effective immedi-
15 ately upon being filed with the ~~secretary--of--state~~ REGIS-
16 TRAR OF RULES and, ~~being--submitted--to~~ IN ADDITION, WITH
17 the legislative service office. ~~Presently~~ IF A STATE
18 AGENCY, Existing rules ~~are--and~~ remain in effect, unless
19 amended ~~and--repeated~~ OR RESCINDED, subject to ~~the--provi-~~
20 ~~sions--of~~ this section or W.S. 28-86 28-9-105 or 28-87,
21 28-9-106;

22 (iii) ON JUNE 2, 1981, THE SECRETARY OF STATE
23 SHALL TRANSFER EXISTING RULES OF LOCAL AGENCIES TO THE

1 RESPECTIVE COUNTY CLERKS.

2 (c) RULES SHALL BE PREPARED IN THE MANNER AND FORM
3 PRESCRIBED BY ~~the secretary--of--state--shall--prescribe~~
4 ~~rules--governing--the--manner--and--form--in--which--rules--shall~~
5 ~~be--prepared--to--the--end--that--all--rules--shall--be--prepared--in~~
6 ~~a--uniform--manner~~ STATE REGISTRAR OF RULES. The secretary
7 of state OR LOCAL REGISTRAR OF RULES may refuse to accept
8 for filing any rule that does not conform to ~~such--rules~~
9 THE PRESCRIBED FORM.

10 9-4-125. Compilation, publication and supplementa-
11 tion of rules; distribution; charges for publications;
12 exceptions; presumption as to proper adoption and filing;
13 supplemental list of state agency rules; quarterly
14 compilation of state agency rule changes; distribution.

15 (a) ~~The--secretary--of--state--shall--compile--index--and~~
16 ~~publish--the--rules--adopted--by--each--agency--and--remaining--in~~
17 ~~effect--The--compilation--shall--be--supplemented--or--revised~~
18 ~~as--often--as--necessary--and--at--least--once--every--two--(2)~~
19 ~~years.~~ IN COOPERATION WITH THE LEGISLATIVE SERVICE OFFICE
20 THE STATE REGISTRAR OF RULES SHALL ESTABLISH A UNIFORM
21 NUMBERING SYSTEM FOR PUBLISHING THE STATE AGENCY RULES.
22 THE REGISTRAR OF RULES SHALL COMPILE, INDEX, SUPPLEMENT,
23 RECOMPILE AND PUBLISH THE STATE AGENCY RULES IN A CONVEN-

1 IENT MANNER SIMILAR TO THE STATUTES. THE STATE AGENCY
2 RULES SHALL BE PUBLISHED NO LATER THAN JANUARY 1, 1933.

3 (b) LOCAL AGENCIES SHALL COMPILE THEIR RULES EFFEC-
4 TIVE AS OF DECEMBER 31 OF EVEN NUMBERED YEARS:

5 (i) THE RULES SHALL BE AVAILABLE TO THE PUBLIC
6 UPON REQUEST EITHER AS SINGLE COPIES OR IN COMPILED FORM;

7 (ii) EXPENSES OF DUPLICATING AND DISTRIBUTION
8 OF COMPILED RULES SHALL BE PAID BY THE LOCAL AGENCY.
9 LOCAL AGENCIES MAY CHARGE FOR THE COST OF COMPILED RULES;

10 (iii) LOCAL AGENCIES MAY JOINTLY PUBLISH THEIR
11 RULES.

12 ~~(b)(c) The secretary of state is empowered to make a~~
13 ~~reasonable charge for any rules published in book, pam-~~
14 ~~phlet, leaflet or booklet form, except ONE (1) COPY OF THE~~
15 CURRENT COMPILATION OF ANY STATE AGENCY'S RULES AND OF
16 SUPPLEMENTS AND AMENDMENTS THERETO SHALL BE FURNISHED AS
17 SOON AS AVAILABLE, WITHOUT CHARGE, to state officers &
18 agencies, members of the legislature or the legislative
19 service officer and others in the employment of the state
20 of Wyoming and its political subdivisions requiring the
21 same WHICH REQUIRE THEM in the performance of their
22 duties, AND TO EACH LEGISLATOR REQUESTING A COPY OF A SPE-

1 CIFIC AGENCY'S RULES AND TO THE LEGISLATIVE SERVICE
2 OFFICE. OTHER COPIES SHALL BE AVAILABLE FOR PURCHASE.

3 ~~(e)~~(d) The ~~secretary's~~ REGISTRAR'S authenticated
4 file stamp on a rule or OFFICIAL publication of A rule
5 shall raise a rebuttable presumption that the rule was
6 adopted and filed in compliance with all requirements
7 necessary to make it effective.

8 (e) A SUPPLEMENTAL LIST BY TITLE OF ALL STATE AGENCY
9 RULES REGISTERED IN THE OFFICE OF THE STATE REGISTRAR OF
10 RULES ON DECEMBER 31 OF EACH YEAR, NOTING THE EFFECTIVE
11 DATE OF EACH RULE, SHALL BE DISTRIBUTED BY THE STATE
12 REGISTRAR OF RULES TO RECIPIENTS OF THE WYOMING STATUTES
13 OR SUPPLEMENTS.

14 (f) A QUARTERLY COMPILATION OF ALL RULE CHANGES
15 SHALL BE PREPARED BY THE STATE REGISTRAR OF RULES AND
16 SHALL BE SENT TO THOSE STATE AGENCIES AND LEGISLATORS
17 REQUESTING COPIES AND TO THE LEGISLATIVE SERVICE OFFICE.
18 OTHER COPIES SHALL BE AVAILABLE FOR PURCHASE.

19 Section 2. W.S. 9-4-104(d) is repealed.

20 Section 3. There is appropriated one hundred thou-
21 sand dollars (\$100,000.00) from the general fund of the
22 state of Wyoming to the office of the secretary of state

1 for the purpose of implementing this act.

2 Section 4. This act is effective June 2, 1981.

3 (END)

House of Intro			
_____	To Com No.	_____	_____
_____	Stand Report Do	Amd _____	Not _____
_____	Com Whole Do	Amd _____	Not _____
_____	2nd Reading Amd	_____	_____
_____	3rd Reading Amd	Pass _____	Fail _____

Second House			
_____	To Com No.	_____	_____
_____	Stand Report Do	Amd _____	Not _____
_____	Com Whole Do	Amd _____	Not _____
_____	2nd Reading Amd	_____	_____
_____	3rd Reading Amd	Pass _____	Fail _____

INTRODUCED

1981

STATE OF WYOMING

81LSO-175.01

HOUSE BILL NO. 46

Filing of administrative rules.

Sponsored by: JOINT JUDICIARY INTERIM COMMITTEE

A BILL

for

1 AN ACT to amend W.S. 9-4-101, 9-4-102(b) and (c),
 2 9-4-103(a) introductory paragraph and (i), (b) and (d),
 3 9-4-104(a), (b) introductory paragraph and (ii) and by
 4 creating a new paragraph (iii) and (c) and 9-4-105; and to
 5 repeal W.S. 9-4-104(d) relating to the Wyoming Administra-
 6 tive Procedure Act; providing definitions; creating a
 7 registrar of rules; providing for state and local regis-
 8 tration; providing for preparation and distribution of
 9 rules; modifying the filing procedure to accommodate state
 10 and local registration; conforming state agency rule
 11 effectiveness to the requirements of W.S. 28-9-101 through

1 28-9-108; providing an appropriation; and providing for an
2 effective date.

3 Be It Enacted by the Legislature of the State of Wyoming:

4 Section 1. W.S. 9-4-101, 9-4-102(b) and (c),
5 9-4-103(a) introductory paragraph and (i), (b) and (d),
6 9-4-104(a), (b) introductory paragraph and (ii) and by
7 creating a new paragraph (iii) and (c) and 9-4-105 are
8 amended to read:

9 9-4-101. Citation of act; definitions.

10 (a) This act MEANS W.S. 9-4-101 THROUGH 9-4-115 AND
11 may be cited as the Wyoming Administrative Procedure Act.

12 (b) As used in this act:

13 (i) "Agency" means any authority, bureau,
14 board, commission, department, division, officer or
15 employee of the state, a county, city or town or other
16 political subdivision of the state, except the governing
17 body of a city or town, the state legislature and the
18 judiciary;

19 (ii) "Contested case" means a proceeding
20 including but not restricted to ratemaking, price fixing
21 and licensing, in which legal rights, duties or privileges

1 of a party are required by law to be determined by an
2 agency after an opportunity for hearing;

3 (iii) "License" includes the whole or part of
4 any agency permit, certificate, approval, registration,
5 charter or similar form of permission required by law, but
6 it does not include a license required solely for revenue
7 purposes;

8 (iv) "Licensing" includes the agency process
9 respecting the grant, denial, renewal, revocation, suspen-
10 sion, annulment, withdrawal or amendment of a license;

11 (v) "LOCAL AGENCY" MEANS ANY AGENCY ESTAB-
12 LISHED OR AUTHORIZED BY LAW WITH RESPONSIBILITIES LIMITED
13 TO LESS THAN STATEWIDE JURISDICTION, EXCEPT THE GOVERNING
14 BODY OF A CITY OR TOWN;

15 (vi) "OFFICIAL PUBLICATION" IS THE TEXT AND
16 EFFECTIVE DATES OF REGISTERED RULES IN A COMPILED, INDEXED
17 AND PRINTED FORM AS PRESCRIBED BY THE REGISTRAR OF RULES
18 AVAILABLE FOR DISTRIBUTION OR SALE BY THE STATE OR ANY
19 POLITICAL SUBDIVISION OF THE STATE;

20 ~~(v)~~ (vii) "Party" means each person or agency
21 named or admitted as a party, or properly seeking and
22 entitled as of right to be admitted as a party;

1 ~~(vii)~~(viii) "Person" means any individual,
2 partnership, corporation, association, municipality,
3 governmental subdivision or public or private organization
4 of any character other than an agency;

5 (ix) "REGISTRAR OF RULES" FOR STATE AGENCY
6 RULES IS THE SECRETARY OF STATE. "REGISTRAR OF RULES" FOR
7 LOCAL AGENCY RULES IS THE COUNTY CLERK OF THE COUNTY IN
8 WHICH THE RULE IS TO BE EFFECTIVE;

9 (x) "REGISTRATION" IS EVIDENCED BY THE FILE
10 STAMP OF THE PROPER REGISTRAR OF RULES, DATED AND SIGNED,
11 ON AN ORIGINAL OF A RULE AND MEANS THAT THE RULE HAS BEEN
12 ACCEPTED FOR PERMANENT REGISTRY IN THE OFFICE OF THE
13 REGISTRAR WHERE IT IS AVAILABLE FOR OFFICIAL PUBLICATION
14 AND PUBLIC INSPECTION UNTIL LAWFULLY AMENDED OR RESCINDED;

15 ~~(viii)~~(xi) "Rule" means--each IS AN agency
16 statement of general applicability that implements, OR
17 interprets and prescribes law, policy or ordinances of
18 cities and towns, or describes the organization, proce-
19 dures, or practice requirements of any AN agency. The term
20 includes the amendment or repeal of a prior rule, but does
21 not include:

22 (A) Statements concerning only the

1 internal management of an agency and not affecting private
2 rights or procedures available to the public; ~~7-01~~

3 (B) Rulings OR DECISIONS issued pursuant
4 to ~~section-6-of-this-act~~, W.S. 9-4-106 or 23-1-302(a)(i)
5 AND (xviii);

6 (C) Intraagency memoranda; ~~7-01~~

7 (D) Agency decisions and findings OR
8 DECISIONS in contested cases; ~~7-01~~

9 (E) Rules, DIRECTIVES OR ORDERS concern-
10 ing the use of public roads or facilities which are indi-
11 cated to the public by ~~means-of~~ signs and signals; ~~7-01~~

12 (F) Ordinances of cities and towns; ~~7-01~~

13 (G) OPINIONS OF THE ATTORNEY GENERAL.

14 (xii) "STATE AGENCY" MEANS ANY AGENCY WITH
15 STATEWIDE RESPONSIBILITIES ESTABLISHED BY LAW OR AUTHOR-
16 IZED BY STATUTE.

17 9-4-102. Rules of practice to be adopted and made
18 available for public inspection; final orders, decisions,
19 etc., to be made available to public; rules, etc., invalid
20 until filed, made available to public and submitted to

1 legislature if state agency; legal assistance of attorney
2 general.

3 (b) No agency rule, ~~order or decision~~ is valid or
4 effective against any person or party, nor may it be
5 invoked by the agency for any purpose, until it has been
6 filed with the ~~secretary of state and~~ REGISTRAR OF RULES,
7 made available for public inspection as herein required.
8 ~~This provision is not applicable as to orders or decisions~~
9 ~~in favor of any person or party who has actual knowledge~~
10 ~~thereof.~~ BY THIS ACT, AND IF A STATE AGENCY RULE, UNTIL
11 ALSO SUBMITTED TO THE MANAGEMENT COUNCIL FOR LEGISLATIVE
12 REVIEW IN ACCORDANCE WITH W.S. 28-9-101 THROUGH 28-9-108.

13 (c) ~~In formulating rules of practice as required by~~
14 ~~this section, each agency may request the assistance of~~
15 ~~the attorney general and upon such request the attorney~~
16 ~~general shall assist such agency or agencies in the pre-~~
17 ~~paration of rules of practice.~~ UPON REQUEST OF ANY STATE
18 OR LOCAL AGENCY THE ATTORNEY GENERAL SHALL PROVIDE LEGAL
19 ASSISTANCE IN FORMULATING REQUIRED RULES AND REGULATIONS.

20 9-4-103. Notice of adoption, etc., of rule; hearing
21 on objections; emergency rules; contesting rules on
22 grounds of noncompliance with section; approval of legis-
23 lature and governor required of state agency rule prior to

1 filing.

2 (a) Prior to an agency's adoption, amendment or
3 ~~repeal~~ RESCISSION of all rules other than interpretative
4 rules or statements of general policy the agency shall:

5 (i) Give at least twenty (20) days notice of
6 its intended action. The notice shall include a statement
7 of either the terms or substance of the proposed rule or a
8 description of the subjects and issues involved, and of
9 the time when, the place where, and the manner in which,
10 interested persons may present their views ~~thereon~~ ON THE
11 INTENDED ACTION. The notices shall be mailed to the attor-
12 ney general, TO the legislative service office IF A STATE
13 AGENCY, and to all persons who have made timely requests
14 of the agency for advanced notice of its rulemaking pro-
15 ceedings;

16 (b) ~~If an agency finds that an emergency exists, and~~
17 ~~such a finding is concurred in by the governor by written~~
18 ~~endorsement on the original copy of a proposed rule, the~~
19 ~~rule may be adopted and become effective immediately upon~~
20 ~~its being filed in the office of the secretary of state~~
21 ~~and submitted to the legislative service office.~~ WHEN AN
22 AGENCY FINDS THAT AN EMERGENCY REQUIRES THE AGENCY TO PRO-
23 CEED WITHOUT NOTICE OR OPPORTUNITY FOR HEARING NORMALLY

1 REQUIRED, IT MAY ADOPT EMERGENCY RULES. AN EMERGENCY RULE
2 IS EFFECTIVE WHEN FILED. A STATE AGENCY EMERGENCY RULE
3 SHALL BEAR THE ENDORSEMENT OF THE GOVERNOR'S CONCURRENCE
4 IN THE FINDING OF EMERGENCY BEFORE THE REGISTRAR OF RULES
5 MAY ACCEPT THE RULE FOR FILING. The rule so adopted may
6 SHALL be effective for ~~a-period~~ no longer than one hundred
7 twenty (120) days, but the adoption of an identical rule
8 under ~~W.S.--9-276-21~~ (a)(i) OF THIS SECTION is not pre-
9 cluded. A LOCAL AGENCY MAY PROCEED WITH THE EMERGENCY RULE
10 WHEN NOTICE OF THE EMERGENCY IS FILED WITH THE LOCAL
11 REGISTRAR OF RULES.

12 (d) ~~Subsequent-to-May-27-1977,~~ No STATE AGENCY rule
13 or any amendment, ~~repeal~~ RESCISSION, modification or revi-
14 sion of the ~~same,~~ RULE may be filed with the secretary of
15 state unless ~~it~~ THE RULE has been submitted to:

16 (i) THE MANAGEMENT COUNCIL FOR LEGISLATIVE
17 REVIEW IN ACCORDANCE WITH W.S. 28-9-101 THROUGH 28-9-108;
18 AND

19 (ii) The governor for review, ~~and--approval,~~
20 and the governor has APPROVED AND signed the ~~same~~ RULE.
21 The governor shall not approve any rule, or any amendment,
22 ~~repeal~~ RESCISSION, modification or revision of the rule,
23 unless it:

1 ~~{i}~~ (A) Is within the scope of the statutory
2 authority delegated to the adopting agency;

3 ~~{ii}~~ (B) Appears to be within the scope of
4 the legislative purpose of the statutory authority; and

5 ~~{iii}~~ (C) Has been adopted in compliance with
6 the procedural requirements of the-Wyoming-Administrative
7 Procedure-Act.--For-the-purposes-of--this--subsection,--an
8 "agency"--means--any-authority,-bureau,-board,-commission,
9 department,-division,-officer-or-employee--of--the--state,
10 excluding--the--state--legislature--and-the-judiciary THIS
11 ACT.

12 9-4-104. Filing rules with registrar of rules; state
13 agency submission to legislative service office; official
14 publication of rules; effective date of rules; exceptions;
15 form of rules.

16 (a) Each agency shall file ~~forthwith~~ in the office
17 of the ~~secretary-of-state~~ REGISTRAR OF RULES AND SUBMIT TO
18 THE LEGISLATIVE SERVICE OFFICE IF A STATE AGENCY, a certi-
19 fied copy of each rule adopted by it. ~~---including--all~~
20 ~~rules--existing--on--the--effective-date-of-the-act.~~ There
21 shall be noted upon ~~such-certificate~~ THE RULES a citation
22 of the ~~authority--by--which--it--or--any--part-of-it--was~~

1 ~~adopted--The-secretary-of-state~~ SPECIFIC STATUTORY AUTHOR-
2 IZATION FOR THE RULES. EACH REGISTRAR OF RULES shall keep
3 ~~a--permanent-register~~ AN OFFICIAL PUBLICATION of the rules
4 open to public inspection.

5 (b) Each rule and any amendment or ~~repeal--thereof~~
6 RESCISSION adopted after ~~March-28--1975~~ JUNE 2, 1981 is
7 effective after filing in accordance with subsection (a)
8 of this section and W.S. ~~28-89~~ 28-9-108 except:

9 (ii) Where the agency finds that an emergency
10 exists, and such finding is concurred in by the governor,
11 ~~---in-case-of-such-emergency--such~~ a rule, OR amendment or
12 ~~repeal~~ RESCISSION thereof, may become effective immedi-
13 ately upon being filed with the ~~secretary-of-state~~ REGIS-
14 TRAR OF RULES and, ~~being-submitted-to~~ IN ADDITION, WITH
15 the legislative service office. ~~Presently~~ IF A STATE
16 AGENCY. Existing rules ~~are-and~~ remain in effect, unless
17 amended ~~and--repealed~~ OR RESCINDED, subject to ~~the-provi-~~
18 ~~sions-of~~ this section or W.S. ~~28-86~~ 28-9-105 or ~~28-87-~~
19 28-9-106;

20 (iii) ON JUNE 2, 1981, THE SECRETARY OF STATE
21 SHALL TRANSFER EXISTING RULES OF LOCAL AGENCIES TO THE
22 RESPECTIVE COUNTY CLERKS.

1 (c) RULES SHALL BE PREPARED IN THE MANNER AND FORM
2 PRESCRIBED BY the secretary--of--state---shall--prescribe
3 ~~rules--governing--the-manner-and-form-in-which-rules-shall~~
4 ~~be-prepared-to-the-end-that-all-rules-shall-be-prepared-in~~
5 ~~a-uniform-manner~~ REGISTRAR OF RULES. The ~~secretary--of~~
6 state REGISTRAR OF RULES may refuse to accept for filing
7 any rule that does not conform to such rules.

8 9-4-105. Compilation, publication and supplementa-
9 tion of rules; distribution; charges for publications;
10 exceptions; presumption as to proper adoption and filing;
11 supplemental list of state agency rules; quarterly
12 compilation of state agency rule changes; distribution.

13 (a) The ~~secretary~~ REGISTRAR of state AGENCY RULES
14 shall compile, index, SUPPLEMENT OR RECOMPILE and publish
15 the ~~ALL~~ rules ~~adopted-by--each--agency--and--remaining--in~~
16 ~~effect,--The--compilation-shall-be-supplemented-or-revised~~
17 ~~as-often-as-necessary-and-at--least--once--every--two--(2)~~
18 ~~years-~~ FILED FOR REGISTRATION AS OF DECEMBER 31 OF EVEN
19 NUMBERED YEARS. STATE AGENCY RULES SHALL BE PUBLISHED FOR
20 DISTRIBUTION BY AUGUST 15 IN ODD NUMBERED YEARS. PUBLI-
21 CATION EXPENSES FOR STATE AGENCY RULES SHALL BE INCLUDED
22 WITHIN THE BUDGET OF THE SECRETARY OF STATE.

23 **(b)** LOCAL AGENCIES SHALL COMPILE THEIR RULES EFFEC-

1 TIVE AS OF DECEMBER 31 OF EVEN NUMBERED YEARS:

2 (i) THE RULES SHALL BE AVAILABLE TO THE PUBLIC
3 UPON REQUEST EITHER AS SINGLE COPIES OR IN COMPILED FORM;

4 (ii) EXPENSES OF DUPLICATING AND DISTRIBUTION
5 OF COMPILED RULES SHALL BE PAID BY THE LOCAL AGENCY.
6 LOCAL AGENCIES MAY CHARGE FOR THE COST OF COMPILED RULES;

7 (iii) LOCAL AGENCIES MAY JOINTLY PUBLISH THEIR
8 RULES.

9 ~~{b}(c)~~ The-secretary-of-state-is-empowered-to-make-a
10 reasonable-charge-for-any-rules-published--in--book7--pam-
11 phlet7--leaflet-or-booklet-form7--except ONE (1) COPY OF THE
12 CURRENT COMPILATION OF STATE AGENCY RULES AND OF SUPPLE-
13 MENTS AND AMENDMENTS THERETO SHALL BE FURNISHED AS SOON AS
14 AVAILABLE, WITHOUT CHARGE, to state officers, agencies,
15 members--of--the--legislature--or--the--legislative-service
16 office7--and-others-in--the--employment--of--the--state--of
17 Wyoming--and-its-political-subdivisions-requiring-the-same
18 WHICH REQUIRE THEM in the performance of their duties, TO
19 EACH LEGISLATOR REQUESTING A COPY OF A SPECIFIC AGENCY'S
20 RULES AND TO THE LEGISLATIVE SERVICE OFFICE. OTHER COPIES
21 SHALL BE AVAILABLE FOR PURCHASE.

22 ~~{e}(d)~~ The secretary's REGISTRAR'S authenticated

1 file stamp on a rule or OFFICIAL publication of A rule
2 shall raise a rebuttable presumption that the rule was
3 adopted and filed in compliance with all requirements
4 necessary to make it effective.

5 (e) A SUPPLEMENTAL LIST BY TITLE OF ALL STATE AGENCY
6 RULES REGISTERED IN THE OFFICE OF THE SECRETARY OF STATE
7 ON DECEMBER 31 OF EACH YEAR, NOTING THE EFFECTIVE DATE OF
8 EACH, SHALL BE DISTRIBUTED BY THE SECRETARY OF STATE TO
9 RECIPIENTS OF THE WYOMING STATUTES OR SUPPLEMENTS.

10 (f) A QUARTERLY COMPILATION OF ALL RULE CHANGES
11 SHALL BE PREPARED BY THE STATE REGISTRAR OF RULES AND
12 SHALL BE SENT TO THOSE STATE AGENCIES AND LEGISLATORS
13 REQUESTING COPIES AND TO THE LEGISLATIVE SERVICE OFFICE.
14 OTHER COPIES SHALL BE AVAILABLE FOR PURCHASE.

15 Section 2. W.S. 9-4-104(d) is repealed.

16 Section 3. There is appropriated one hundred thou-
17 sand dollars (\$100,000.00) from the general fund of the
18 state of Wyoming to the office of the secretary of state
19 for the purpose of implementing this act.

1 Section 4. This act is effective June 2, 1981.

2 (END)

FISCAL NOTE

Anticipated REVENUE to:	Fiscal Year 19	Fiscal Year 19
TOTAL ESTIMATED REVENUE		
Anticipated COST to:	Fiscal Year 19 ⁸¹	Fiscal Year 19
General Fund	\$100,000.00	
TOTAL ESTIMATED COST	\$100,000.00	

1. The bill provides a \$100,000 appropriation.
2. Additional personnel may be required to implement the provisions of this bill.

HB46RS1/A

HB 46
11/16/81

- ✓ Page 6-line 11 delete "MANAGEMENT COUNCIL" and insert "LEGISLATIVE SERVICE OFFICE".
- ✓ Page 6-line 18 delete "OR LOCAL".
- ✓ Page 7-line 23 delete "NORMALLY".
- ✓ Page 8-line 1 after "REQUIRED" insert "BY PARAGRAPH (a)(1) OF THIS SECTION".
- ✓ Page 8-line 16 delete "MANAGEMENT COUNCIL" and insert "LEGISLATIVE SERVICE OFFICE".
- ✓ Page 11-line 7 strike "~~such rules~~" and insert "THE PRESCRIBED FORM".
- ✓ Page 12-line 12 after the first "OF" insert "ANY"; delete "AGENCY" and insert "AGENCY'S".
- ✓ Page 12-line 18 after the ", ' insert "AND".
- ✓ Page 13-line 6 delete "SECRETARY OF" after "STATE" insert "REGISTRAR OF RULES".
- ✓ Page 13-line 8 after "EACH" insert "RULE"; delete "SECRETARY OF"; after "STATE" insert "REGISTRAR OF RULES". -ELLEN CROWLEY, CHAIRMAN

ADOPTED

HB46HW1/A

- ✓ Page 11-line 5 Before "REGISTRAR" insert "STATE".
- ✓ Page 11-line 6 Reinsert stricken "state"; after "state" insert "OR LOCAL".
- ✓ Page 11-lines 13 through 22 strike and delete. Insert:

"(a) IN COOPERATION WITH THE LEGISLATIVE SERVICE OFFICE THE STATE REGISTRAR OF RULES SHALL ESTABLISH A UNIFORM NUMBERING SYSTEM FOR PUBLISHING THE STATE AGENCY RULES. THE REGISTRAR OF RULES SHALL COMPILE, INDEX, SUPPLEMENT, RECOMPILE AND PUBLISH THE STATE AGENCY RULES IN A CONVENIENT MANNER SIMILAR TO THE STATUTES. THE STATE AGENCY RULES SHALL BE PUBLISHED NO LATER THAN JANUARY 1, 1983." -HANSEN

ADOPTED

HB46HW2/A

- ✓ Page 1-line 9 After "rules" insert "in a format established in cooperation with the legislative service office". -CROWLEY

ADOPTED

HB46H21/A

- ✓ Page 1-line 6 Delete "a".
- ✓ Page 1-line 7 Delete "registrar" insert "state and local registrars". -SCHNOPE

ADOPTED