

Senate Bill 228

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies procedures for agency rulemaking and for review of rules by Legislative Counsel.

A BILL FOR AN ACT

1
2 Relating to administrative rules; creating new provisions; and amending ORS 183.333, 183.335,
3 183.337, 183.341, 183.405 and 183.720.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Not later than five years after the effective date of this 2017 Act, each**
6 **agency shall review all of the agency's rules that are in effect on the effective date of this**
7 **2017 Act in accordance with ORS 183.405.**

8 **SECTION 2.** ORS 183.333 is amended to read:

9 183.333. (1) The Legislative Assembly finds and declares that it is the policy of this state that
10 [*whenever possible*] the public be involved in the development of public policy by agencies and in the
11 drafting of rules. [*The Legislative Assembly encourages agencies to seek public input to the maximum*
12 *extent possible*] Before giving notice of intent to adopt a rule[. *The*], **an** agency [*may*] **shall** appoint
13 an advisory committee that will represent the interests of persons likely to be affected by the
14 rule[, *or use any other means of obtaining public views that will*] **to** assist the agency in drafting the
15 rule.

16 (2) [*Any*] **An** agency [*in its discretion may develop*] **shall develop and maintain** a list of inter-
17 ested parties and inform those parties of any issue that may be the subject of rulemaking and invite
18 the parties to make comments on the issue.

19 (3) [*If an agency appoints an advisory committee for consideration of a rule under subsection (1)*
20 *of this section, the agency shall seek the committee's recommendations*] **An agency shall seek the**
21 **recommendations of the advisory committee appointed under subsection (1) of this section,**
22 on whether the rule will have a fiscal impact[, *what*] **and** the extent of that impact [*will be*] and
23 whether the rule will have a significant adverse impact on small businesses. If the committee indi-
24 cates that the rule will have a significant adverse impact on small businesses, the agency shall seek
25 the committee's recommendations on compliance with ORS 183.540.

26 (4) An agency shall consider an advisory committee's recommendations provided under sub-
27 section (3) of this section in preparing the statement of fiscal impact required by ORS 183.335
28 (2)(b)(E).

29 [(5) *If an agency does not appoint an advisory committee for consideration of a permanent rule*
30 *under subsection (1) of this section and 10 or more persons likely to be affected by the rule object to*
31 *the agency's statement of fiscal impact as required by ORS 183.335 (2)(b)(E) or an association with at*

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 *least 10 members likely to be affected by the rule objects to the statement, the agency shall appoint a*
 2 *fiscal impact advisory committee to provide recommendations on whether the rule will have a fiscal*
 3 *impact and what the extent of that impact will be. An objection under this subsection must be made*
 4 *not later than 14 days after the notice required by ORS 183.335 (1) is given. If the agency determines*
 5 *that the statement does not adequately reflect the rule's fiscal impact, the agency shall extend the period*
 6 *for submission of data or views under ORS 183.335 (3)(a) by at least 20 days. The agency shall include*
 7 *any recommendations from the committee in the record maintained by the agency for the rule.]*

8 *[(6) Subsection (5) of this section does not apply to any rule adopted by an agency to comply with*
 9 *a judgment or a settlement of a judicial proceeding.]*

10 *[(7)]* **(5)** *[If an agency is required by law to appoint an advisory committee under this section,*
 11 *the] An* agency may not appoint *[an]* **more than one** officer, employee or other agent of the agency
 12 to serve as a member of *[the]* **an** advisory committee **appointed under subsection (1) of this sec-**
 13 **tion.**

14 **(6) This section does not apply to:**

15 **(a) The amendment of a rule for the reasons described in ORS 183.335 (7); or**

16 **(b) The adoption of a rule as necessary to comply with a judgment or settlement of a**
 17 **judicial proceeding.**

18 **SECTION 3.** ORS 183.335 is amended to read:

19 183.335. (1) Prior to the adoption, amendment or repeal of any rule, the agency shall give notice
 20 of its intended action:

21 (a) In the manner established by rule adopted by the agency under ORS 183.341 (4), which pro-
 22 vides a reasonable opportunity for interested persons to be notified of the agency's proposed action;

23 (b) In the bulletin referred to in ORS 183.360 at least 21 days prior to the effective date;

24 (c) At least 28 days before the effective date, to persons who have requested notice pursuant to
 25 subsection (8) of this section; and

26 (d) Delivered only by electronic mail, at least 49 days before the effective date, to the persons
 27 specified in subsection (15) of this section.

28 (2)(a) The notice required by subsection (1) of this section must include:

29 (A) A caption of not more than 15 words that reasonably identifies the subject matter of the
 30 agency's intended action. The agency shall include the caption on each separate notice, statement,
 31 certificate or other similar document related to the intended action.

32 (B) An objective, simple and understandable statement summarizing the subject matter and
 33 purpose of the intended action in sufficient detail to inform a person that the person's interests may
 34 be affected, and the time, place and manner in which interested persons may present their views on
 35 the intended action.

36 (b) The agency shall include with the notice of intended action given under subsection (1) of this
 37 section **all of the following:**

38 (A) A citation of the statutory or other legal authority relied upon and bearing upon the
 39 promulgation of the rule[;].

40 (B) A citation of the statute or other law the rule is intended to implement[;].

41 (C) A statement of the need for the rule and a statement of how the rule is intended to meet the
 42 need[;].

43 (D) A list of the principal documents, reports or studies, if any, prepared by or relied upon by
 44 the agency in considering the need for and in preparing the rule, and a statement of the location
 45 at which those documents are available for public inspection. The list may be abbreviated if neces-

1 sary, and if so abbreviated there shall be identified the location of a complete list[;].

2 (E) A statement of fiscal impact identifying state agencies, units of local government and the
3 public that may be economically affected by the adoption, amendment or repeal of the rule and an
4 estimate of that economic impact on state agencies, units of local government and the public. In
5 considering the economic effect of the proposed action on the public, the agency shall utilize avail-
6 able information to project any significant economic effect of that action on businesses [*which*]. **The**
7 **projection** shall include a cost of compliance effect on small businesses affected. For an agency
8 specified in ORS 183.530, the statement of fiscal impact shall also include a housing cost impact
9 statement as described in ORS 183.534[;].

10 [(F) *If an advisory committee is not appointed under the provisions of ORS 183.333, an explanation*
11 *as to why no advisory committee was used to assist the agency in drafting the rule; and*]

12 [(G)] (F) A request for public comment on whether other options should be considered for
13 achieving the rule's substantive goals while reducing the negative economic impact of the rule on
14 business.

15 (c) The Secretary of State may omit the information submitted under paragraph (b) of this sub-
16 section from publication in the bulletin referred to in ORS 183.360.

17 (d) When providing notice of an intended action under subsection (1)(c) of this section, the
18 agency shall provide a copy of the rule that the agency proposes to adopt, amend or repeal, or an
19 explanation of how the person may acquire a copy of the rule. The copy of an amended rule shall
20 show all changes to the rule by striking through material to be deleted and underlining all new
21 material, or by any other method that clearly shows all new and deleted material.

22 (3)(a) When an agency proposes to adopt, amend or repeal a rule, [*it*] **the agency shall hold a**
23 **public hearing to** give interested persons reasonable opportunity to submit data or views. [*Oppor-*
24 *tunity for oral hearing shall be granted upon request received from 10 persons or from an association*
25 *having not less than 10 members before the earliest date that the rule could become effective after the*
26 *giving of notice pursuant to subsection (1) of this section. An agency holding a hearing upon a request*
27 *made under this subsection*] **The agency** shall give notice of the hearing at least 21 days before the
28 hearing to the [*person who has requested the hearing, to*] persons who have requested notice pursu-
29 ant to subsection (8) of this section and to the persons specified in subsection (15) of this section.
30 The agency shall publish notice of the hearing in the bulletin referred to in ORS 183.360 at least
31 14 days before the hearing. The agency shall consider fully any written or oral submission.

32 (b) If [*an agency is required to conduct an oral hearing under paragraph (a) of this subsection,*
33 *and*] the rule for which the hearing is to be conducted applies only to a limited geographical area
34 within this state, or affects only a limited geographical area within this state, the hearing shall be
35 conducted within the geographical area at the place most convenient for the majority of the resi-
36 dents within the geographical area. At least 14 days before a hearing conducted under this para-
37 graph, the agency:

38 (A) Shall publish notice of the hearing in the bulletin referred to in ORS 183.360; and

39 (B) **May publish notice of the hearing** in a newspaper of general circulation published within
40 the geographical area that is affected by the rule or to which the rule applies. If a newspaper of
41 general circulation is not published within the geographical area that is affected by the rule or to
42 which the rule applies, the publication [*shall*] **may** be made in the newspaper of general circulation
43 published closest to the geographical area.

44 (c) Notwithstanding paragraph (a) of this subsection, the Department of Corrections and the
45 State Board of Parole and Post-Prison Supervision may adopt rules limiting participation by inmates

1 in the proposed adoption, amendment or repeal of any rule to written submissions.

2 (d) If requested by at least five persons before the earliest date that the rule could become ef-
3 fective after the agency gives notice pursuant to subsection (1) of this section, the agency shall
4 provide a statement that identifies the objective of the rule and a statement of how the agency will
5 subsequently determine whether the rule is in fact accomplishing that objective.

6 (e) An agency that receives data or views concerning proposed rules from interested persons
7 shall maintain a record of the data or views submitted. The record shall contain:

8 (A) All written materials submitted to an agency in response to a notice of intent to adopt,
9 amend or repeal a rule.

10 (B) A recording or summary of oral submissions received at hearings held for the purpose of
11 receiving those submissions.

12 (C) Any public comment received in response to the request made under subsection [(2)(b)(G)]
13 **(2)(b)(F)** of this section and the agency's response to that comment.

14 (D) Any statements provided by the agency under paragraph (d) of this subsection.

15 (4) Upon request of an interested person received before the earliest date that the rule could
16 become effective after the giving of notice pursuant to subsection (1) of this section, the agency shall
17 postpone the date of its intended action no less than 21 **days** nor more than 90 days in order to
18 allow the requesting person an opportunity to submit data, views or arguments concerning the pro-
19 posed action. Nothing in this subsection shall preclude an agency from adopting a temporary rule
20 pursuant to subsection (5) of this section.

21 (5) Notwithstanding subsections (1) to (4) of this section, an agency may adopt, amend or sus-
22 pend a rule without prior notice or hearing or upon any abbreviated notice and hearing that it finds
23 practicable, if the agency prepares:

24 (a) A statement of its findings that its failure to act promptly will result in serious prejudice to
25 the public interest or the interest of the parties concerned and the specific reasons for its findings
26 of prejudice;

27 (b) A citation of the statutory or other legal authority relied upon and bearing upon the
28 promulgation of the rule;

29 (c) A statement of the need for the rule and a statement of how the rule is intended to meet the
30 need;

31 (d) A list of the principal documents, reports or studies, if any, prepared by or relied upon by
32 the agency in considering the need for and in preparing the rule, and a statement of the location
33 at which those documents are available for public inspection; and

34 (e) For an agency specified in ORS 183.530, a housing cost impact statement as defined in ORS
35 183.534.

36 (6)(a) A rule adopted, amended or suspended under subsection (5) of this section is temporary
37 and may be effective for a period of not longer than 180 days. The adoption of a rule under this
38 subsection does not preclude the subsequent adoption of an identical rule under subsections (1) to
39 (4) of this section.

40 (b) A rule temporarily suspended shall regain effectiveness upon expiration of the temporary
41 period of suspension unless the rule is repealed under subsections (1) to (4) of this section.

42 (7) Notwithstanding subsections (1) to (4) of this section, an agency may amend a rule without
43 prior notice or hearing if the amendment is solely for the purpose of:

44 (a) Changing the name of an agency by reason of a name change prescribed by law;

45 (b) Changing the name of a program, office or division within an agency as long as the change

1 in name does not have a substantive effect on the functions of the program, office or division;

2 (c) Correcting spelling;

3 (d) Correcting grammatical mistakes in a manner that does not alter the scope, application or
4 meaning of the rule;

5 (e) Correcting statutory or rule references; or

6 (f) Correcting addresses or telephone numbers referred to in the rules.

7 (8)(a) Any person may request in writing that an agency send to the person copies of the
8 agency's notices of intended action issued under subsection (1) of this section. The person must
9 provide an address where the person elects to receive notices. The address provided may be a postal
10 mailing address or, if the agency provides notice by electronic mail, may be an electronic mailing
11 address.

12 (b) A request under this subsection must indicate that the person requests one of the following:

13 (A) The person may request that the agency mail paper copies of the proposed rule and other
14 information required by subsection (2) of this section to the postal mailing address.

15 (B) If the agency posts notices of intended action on a website, the person may request that the
16 agency mail the information required by subsection (2)(a) of this section to the postal mailing ad-
17 dress with a reference to the website where electronic copies of the proposed rule and other infor-
18 mation required by subsection (2) of this section are posted.

19 (C) The person may request that the agency electronically mail the information required by
20 subsection (2)(a) of this section to the electronic mailing address, and either provide electronic
21 copies of the proposed rule and other information required by subsection (2) of this section or pro-
22 vide a reference to a website where electronic copies of the proposed rule and other information
23 required by subsection (2) of this section are posted.

24 (c) Upon receipt of any request under this subsection, the agency shall acknowledge the request,
25 establish a mailing list and maintain a record of all mailings made pursuant to the request. Agen-
26 cies may establish procedures for establishing the mailing lists and keeping the mailing lists current.
27 Agencies by rule may establish fees necessary to defray the costs of mailings and maintenance of
28 the lists.

29 (d) Members of the Legislative Assembly who receive notices under subsection (15) of this sec-
30 tion may request that an agency furnish paper copies of the notices.

31 (9) This section does not apply to rules establishing an effective date for a previously effective
32 rule or establishing a period during which a provision of a previously effective rule will apply.

33 (10) This section does not apply to ORS 279.835 to 279.855, 279A.140 to 279A.161, 279A.250 to
34 279A.290, 279A.990, 279B.050 to 279B.085, 279B.200 to 279B.240, 279B.270, 279B.275, 279B.280,
35 279C.360, 279C.365, 279C.370, 279C.375, 279C.380, 279C.385, 279C.500 to 279C.530, 279C.540, 279C.545,
36 279C.550 to 279C.570, 279C.580, 279C.585, 279C.590, 279C.600 to 279C.625, 279C.650 to 279C.670 and
37 279C.800 to 279C.870 relating to public contracts and purchasing.

38 (11)(a) Except as provided in paragraph (c) of this subsection, a rule is not valid unless adopted
39 in substantial compliance with the provisions of this section in effect on the date that the notice
40 required under subsection (1) of this section is delivered to the Secretary of State for the purpose
41 of publication in the bulletin referred to in ORS 183.360.

42 (b) In addition to all other requirements with which rule adoptions must comply, a rule is not
43 valid if the rule has not been submitted to the Legislative Counsel in the manner required by ORS
44 183.715.

45 (c) A rule is not subject to judicial review or other challenge by reason of failing to comply with

1 subsection (2)(a)(A) of this section.

2 (12)(a) Notwithstanding the provisions of subsection (11) of this section, but subject to paragraph
3 (b) of this subsection, an agency may correct its failure to substantially comply with the require-
4 ments of subsections (2) and (5) of this section in adoption of a rule by an amended filing, as long
5 as the noncompliance did not substantially prejudice the interests of persons to be affected by the
6 rule.

7 (b) An agency may use an amended filing to correct a failure to include a fiscal impact state-
8 ment in a notice of intended action, as required by subsection (2)(b)(E) of this section, or to correct
9 an inaccurate fiscal impact statement[, *only if the agency developed the fiscal impact statement with*
10 *the assistance of an advisory committee or fiscal impact advisory committee appointed under ORS*
11 *183.333*].

12 (13) Unless otherwise provided by statute, the adoption, amendment or repeal of a rule by an
13 agency need not be based upon or supported by an evidentiary record.

14 (14) When an agency has established a deadline for comment on a proposed rule under the pro-
15 visions of subsection (3)(a) of this section, the agency may not extend that deadline for another
16 agency or person unless the extension applies equally to all interested agencies and persons. An
17 agency [*shall*] **may** not consider any submission made by another agency after the final deadline has
18 passed.

19 (15) The notices required under subsections (1) and (3) of this section must be given by the
20 agency to the following persons:

21 (a) If the proposed adoption, amendment or repeal results from legislation that was passed
22 within two years before notice is given under subsection (1) of this section, notice shall be given to
23 the legislator who introduced the bill that subsequently was enacted into law[,] and to the chair or
24 cochairs of all committees that reported the bill out, except for those committees whose sole action
25 on the bill was referral to another committee.

26 (b) If the proposed adoption, amendment or repeal does not result from legislation that was
27 passed within two years before notice is given under subsection (1) of this section, notice shall be
28 given to the chair or cochairs of any interim or session committee with authority over the subject
29 matter of the rule.

30 (c) If notice cannot be given under paragraph (a) or (b) of this subsection, notice shall be given
31 to the Speaker of the House of Representatives and to the President of the Senate who are in office
32 on the date the notice is given.

33 (16)(a) Upon the request of a member of the Legislative Assembly or of a person who would be
34 affected by a proposed adoption, amendment or repeal, the committees receiving notice under sub-
35 section (15) of this section shall review the proposed adoption, amendment or repeal for compliance
36 with the legislation from which the proposed adoption, amendment or repeal results.

37 (b) The committees shall submit their comments on the proposed adoption, amendment or repeal
38 to the agency proposing the adoption, amendment or repeal.

39 **SECTION 4.** ORS 183.337 is amended to read:

40 183.337. (1) Notwithstanding ORS 183.335, when an agency is required to adopt rules or regu-
41 lations promulgated by an agency of the federal government and the agency has no authority to
42 alter or amend the content or language of those rules or regulations prior to their adoption, the
43 agency may adopt those rules or regulations under the procedure prescribed in this section.

44 (2) Prior to the adoption of a federal rule or regulation under subsection (1) of this section, the
45 agency shall give notice of the adoption of the rule or regulation, the effective date of the rule or

1 regulation in this state and the subject matter of the rule or regulation in the manner established
2 in ORS 183.335 (1).

3 (3) After giving notice the agency may adopt the rule or regulation by filing a copy with the
4 Secretary of State in compliance with ORS 183.355. The agency is not required to conduct a public
5 hearing concerning the adoption of the rule or regulation.

6 (4) *[Nothing in]* **Except as provided in subsection (1) of this section**, this section
7 *[authorizes]* **does not authorize** an agency to *[amend federal rules or regulations or]* adopt rules in
8 accordance with federal requirements without giving an opportunity for hearing as required by ORS
9 183.335.

10 **SECTION 5.** ORS 183.341 is amended to read:

11 183.341. (1) The Attorney General shall *[prepare]* **adopt, in accordance with ORS 183.335,**
12 model rules of procedure **that are** appropriate for use by as many agencies as possible **for the**
13 **adoption, amendment or repeal of a rule and for the conduct of proceedings in contested**
14 **cases.** *[Except as provided in ORS 183.630, any]* **An** agency may adopt all or part of the model rules
15 by reference without complying with the rulemaking procedures under ORS 183.335. Notice of such
16 adoption shall be filed with the Secretary of State in the manner provided by ORS 183.355 for the
17 filing of rules. The model rules **adopted by any agency by reference or by the Attorney General**
18 may be amended from time to time by *[an]* **the** adopting agency or the Attorney General **only** after
19 notice and opportunity for hearing as required by *[rulemaking procedures under this chapter]* **ORS**
20 **183.335.**

21 (2) Except as provided in ORS 183.630, *[all agencies]* **if an agency does not adopt by reference**
22 **the Attorney General's model rules as provided in subsection (1) of this section, the agency**
23 shall adopt, **in accordance with ORS 183.335,** rules of procedure to be utilized in the adoption *[of*
24 *rules and]*, **amendment or repeal of a rule and for the** conduct of proceedings in contested cases
25 or, if exempt from the contested case provisions of this chapter, for the conduct of proceedings.

26 (3) The Secretary of State shall publish in the Oregon Administrative Rules:

27 (a) The Attorney General's model rules adopted under subsection (1) of this section;

28 (b) The procedural rules of all agencies that have not adopted the Attorney General's model
29 rules; and

30 (c) The notice procedures required by ORS 183.335 (1).

31 (4) *[Agencies shall adopt]* Rules of procedure *[which will]* **to adopt, amend or repeal a rule**
32 **must** provide a reasonable opportunity for interested persons to be notified of the agency's intention
33 to adopt, amend or repeal a rule.

34 (5) No rule adopted after September 13, 1975, is valid unless adopted in substantial compliance
35 with the rules adopted *[pursuant to subsection (4) of]* **in accordance with** this section.

36 **SECTION 6.** ORS 183.405 is amended to read:

37 183.405. (1) Not later than five years after adopting a rule, an agency shall review the rule for
38 the purpose of determining:

39 (a) Whether the rule has had the intended effect;

40 (b) Whether the anticipated fiscal impact of the rule was underestimated or overestimated;

41 (c) Whether subsequent changes in the law require that the rule be repealed or amended; and

42 (d) Whether there is continued need for the rule.

43 (2) An agency shall utilize available information in complying with the requirements of sub-
44 section (1) of this section.

45 (3) *[If an agency appoints an advisory committee pursuant to ORS 183.333 for consideration of a*

1 *rule subject to the requirements of this section, the]* **An** agency shall provide the advisory committee
 2 **appointed pursuant to ORS 183.333 for consideration of a rule** with a report on a review of the
 3 rule conducted under this section.

4 (4) The provisions of this section do not apply to the amendment or repeal of a rule.

5 (5) The provisions of this section do not apply to:

6 (a) Rules adopted to implement court orders or the settlement of civil proceedings;

7 (b) Rules that adopt federal laws or rules by reference;

8 (c) Rules adopted to implement legislatively approved fee changes; or

9 (d) Rules adopted to correct errors or omissions.

10 **SECTION 7.** ORS 183.720 is amended to read:

11 183.720. (1) The Legislative Counsel may review, or shall review at the direction of the Legis-
 12 lative Counsel Committee, a proposed rule or an adopted rule of a state agency.

13 (2) The Legislative Counsel may review an adopted rule of a state agency upon the written re-
 14 quest of any person affected by the rule. The Legislative Counsel shall review a proposed or adopted
 15 rule of a state agency upon the written request of any member of the Legislative Assembly. The
 16 written request for review must identify the specific objection or problem with the rule.

17 (3) When reviewing a rule of a state agency pursuant to subsection (1) or (2) of this section, the
 18 Legislative Counsel shall:

19 (a) Determine whether the rule appears to be within the intent and scope of the enabling legis-
 20 lation purporting to authorize its adoption; and

21 (b) Determine whether the rule raises any constitutional issue other than described in paragraph
 22 (a) of this subsection, and if so, the nature of the issue.

23 (4) In making a determination under subsection (3)(a) of this section, the Legislative Counsel
 24 shall, wherever possible, follow generally accepted principles of statutory construction.

25 (5) The Legislative Counsel shall prepare written findings on a rule reviewed, setting forth the
 26 determinations made under subsection (3) of this section.

27 (6) When a review of a rule is made by the Legislative Counsel, the Legislative Counsel shall
 28 send a copy of the determinations made under subsection (3) of this section to the appropriate in-
 29 terim committee or, if the review was requested by a member of the Legislative Assembly or by a
 30 person affected by the rule, to the person requesting the review. If the Legislative Counsel deter-
 31 mines that a rule is not within the intent and scope of the enabling legislation purporting to au-
 32 thorize the state agency's adoption of the rule, or that the rule raises a constitutional issue, the
 33 Legislative Counsel shall also send a copy of the determination to the agency **and to the Secretary**
 34 **of State**. The Legislative Counsel may request that the state agency respond in writing to the de-
 35 terminations or appear at the meeting of the interim committee at which the committee will consider
 36 the determinations. The interim committee may direct the Legislative Counsel to send a copy of the
 37 determinations to the presiding officer of a house of the Legislative Assembly, who may refer the
 38 determinations to any legislative committee concerned.

39 (7)(a) A member of the Legislative Assembly may request that Legislative Counsel prepare a
 40 report on a rule adopted by a state agency that the member asserts is duplicative of or conflicts
 41 with another rule. A person affected by a rule adopted by a state agency may request that Legisla-
 42 tive Counsel prepare a report on the rule if the person asserts that the rule is duplicative of or
 43 conflicts with another rule. A request for a report must be in writing and contain copies of the two
 44 rules that are claimed to be duplicative or conflicting. The second rule may be either a rule adopted
 45 by a state agency or a rule or regulation adopted by a federal agency.

1 (b)(A) Upon receipt of a written request by a member of the Legislative Assembly, the Legisla-
 2 tive Counsel shall prepare a report to the interim committee that contains:

3 (i) A copy of the request, including copies of the two rules that the member asserts are con-
 4 flicting or duplicative; and

5 (ii) Legislative Counsel's analysis of the requirements of the two rules.

6 (B) Upon receipt of a written request by a person affected by a rule adopted by a state agency,
 7 the Legislative Counsel may prepare a written report to the person and each state agency concerned
 8 that contains the Legislative Counsel's analysis of the requirements of the two rules.

9 (8) Upon receipt of a report under subsection (7)(b)(A) of this section, the interim committee may
 10 issue a determination that a rule is duplicative of or conflicts with the other cited rule.

11 (9) When a report on a rule is made by the Legislative Counsel under subsection (7)(b)(A) of this
 12 section, the Legislative Counsel shall send a copy of the report and any determinations made under
 13 subsection (8) of this section to each state agency concerned **and to the Secretary of State**. The
 14 interim committee may direct the Legislative Counsel to send a copy of the determinations to the
 15 presiding officer of a house of the Legislative Assembly, who may refer the determinations to any
 16 legislative committee concerned.

17 **SECTION 8. Section 1 of this 2017 Act is repealed on January 2, 2023.**

18