

Change Item: Revisor's Office Administrative Rules System

Fiscal Impact (\$000s)	FY 2016	FY 2017	FY 2018	FY 2019
General Fund				
Expenditures	\$380	\$855	\$430	\$430
Revenues	0	0	0	0
Other Funds				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact = (Expenditures – Revenues)	\$380	\$855	\$430	\$430
FTEs	3.0	3.0	3.0	3.0

Recommendation:

The Governor recommends an appropriation to MPCA for transfer to the Revisor's Office of \$380,000 in FY 2016 and \$855,000 in FY 2017 from the General Fund for the design, development, and operation of a new online system to serve as the official rulemaking system across state government. The initiative reflects the need for higher funding in FY 2016-17 for system design and development, with a transition in future years to maintenance-level funding. There is currently no base funding for this activity at the Revisor's Office.

The Governor also recommends policy changes to make the rulemaking process shorter and more efficient while preserving public participation and independent legal review. Changes include the creation of a non-controversial expedited process for creating a non-controversial expedited process for simple or noncontroversial rulemakings; increasing the use of expedited and exempt rules; adding flexibility and simplifying the rules justification required in the Statement of Need and Reasonableness (SONAR); and reducing reporting and paperwork to utilize electronic notification and eliminating duplicative reports.

Rationale/Background:

Each agency keeps an official record of the rulemaking it undertakes. Agencies handle this responsibility in different ways, so there is no uniform way or place for the public to access the information. While some agencies have these documents online for active rulemakings, most materials from past rulemaking are kept in electronic or paper files (especially for older rulemakings) that must be requested by the public for review.

The current rulemaking process is a one size fits all process that does not recognize the difference between a simple and noncontroversial rulemaking or a complex and controversial rulemaking. A cross-agency legislative work group has proposed several changes to the rulemaking process to make it shorter and more efficient, while preserving public participation and independent legal review. By streamlining the existing rulemaking process, we can improve the quality of regulations through timely implementation of changes; increase regulatory certainty and remove confusion by reducing the period of time when rules are "in transition"; and improve public access to information about agencies' rulemaking efforts.

Proposal:

The first component of this request funds an envisioned new system, the Administrative Rules Status System. Ownership of the system will fall under the auspices of the Revisor's Office. The system will also aid in the long-term preservation of rulemaking documents and give citizens access to rulemaking documents. The system is modeled after the Revisor's Bill Status System and a beta version of the Historic Administrative Rules Status System.

The goal of the change item is to improve public access and transparency of state agencies' official rulemaking records through the creation of an online records system. The envisioned Administrative Rules Status System would serve as a one-stop shop for the public to follow and research rulemakings. Agencies could fulfill their requirement to maintain the official rule record by submitting the required documents to the Revisor for inclusion in the online records system. In addition, agencies would be able to use the system to store electronic versions of their old official rulemaking records, once those records are converted to electronic formats.

The Revisor is the ideal host of the system, since it already maintains the official record of the Minnesota Constitution, Laws and Statutes. Funds would be used to expand on the beta version of Historic Administrative Rules Status System that stores some historic rulemaking documents back to 1980. Since the system would be able to serve as the official record of all rulemakings, additional resources are needed to improve security, increase storage capabilities, and ensure authenticity and preservation of documents. The

design and build of the system would occur during FY 2016-2017. In FY 2018, the system would be operational for the public to use; funds requested in FY 2018-19 will be dedicated to the operation and maintenance of the system.

The second component of this request amends the rulemaking process to make the following changes:

Creation of Non-Controversial Expedited Process. A noncontroversial expedited process is created for agencies to choose for simple or noncontroversial rulemakings. The process would vastly speed up the process (3-5 months). It provides a "circuit breaker" for public protection in the event the rule is more controversy or complex than expected by allowing 25 people to request the proposal go through the full rulemaking process

Increase Use of Expedited and Exempt Rules. Beyond the general authority to use the expedited process for non-controversial rules, the proposal adds additional areas where expedited rulemaking is allowed, such as conforming to state and federal changes or repealing obsolete and unnecessary rules. A change is also included to allow more exempt rules to be permanent rules, to reduce the need to complete two rulemaking processes.

Add Flexibility and Simplifies Rules Justification. The current SONAR (Statement of Need and Reasonableness) has evolved from a description of the need and reasonableness of a proposed rule to include a laundry list of specific requirements to be checked off. The work in preparing the SONAR has shifted away from the core need and reasonableness discussion in order to complete these tasks. The proposal modifies the contents of the SONAR, returning it to its roots, to address the purpose, impacts, people and groups impacted, and costs and benefits of the rule.

Reduce Reporting/Paperwork. Several changes are made throughout the proposal to increase the use of electronic notification, reduce reports that duplicate information, and remove requirements that are not providing value. This will be implemented through the database outlined above, which will act as the official rulemaking record for future rulemakings, saving agencies resources from storing the materials and making them more accessible to the public. It will have the capability to store old rulemakings records agencies transform from hard to electronic copies.

IT Related Proposals:

The Legislature/Revisor will be doing the work and directly receive the requested funds. The Legislature has IT operations separate from MN.IT Services. However, this proposal anticipates interaction with MN.IT Services at many steps throughout the project. The proposal calls for staff and consultant services for the design and development activities, new software and hardware. Expected expenses for FY 2020-21 will be similar to the FY 2018-19 expenses.

Results:

While improvement in the public's belief in the transparency of the rulemaking process is difficult to measure, the number of people accessing the official record of rulemakings can be tracked. The beta version of the Historic Administrative Rules Status System has tracked the number of "hits" for various parts of its system since May 2013. Hits on the state register were a little over 2,000 in May 2013, and had grown to approximately 7,000 in May 2014. Hits for rule searches were roughly static in that time period. Unfortunately, agencies do not have metrics for tracking the number of historical requests for accessing electronic or paper copies of the official records in their possession. As more people become aware of the new system, the Revisor's tracked "hits" will increase, along with the number of people signed up for the proposed "MyRules" application (modeled off the "MyBills" tool).

Statutory Change(s):

14.365 OFFICIAL RULEMAKING RECORD