

LEGISLATURE OF NEBRASKA

ONE HUNDRED THIRD LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 720

Introduced by Crawford, 45; Avery, 28; Krist, 10; Lathrop, 12;
Nordquist, 7.

Read first time January 08, 2014

Committee: Executive Board

A BILL

1 FOR AN ACT relating to the Administrative Procedure Act; to amend
2 section 84-907.10, Reissue Revised Statutes of Nebraska;
3 to provide and change a complaint procedure relating to
4 rules and regulations for members of the Legislature,
5 political subdivisions, and members of the public; and to
6 repeal the original section.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 84-907.10, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 84-907.10 ~~(1) After an agency submits a copy of each~~
4 ~~amendment or rule or regulation pursuant to section 84-907.06, or any~~
5 ~~time thereafter, (1)(a) If any member of the Legislature who or the~~
6 governing body of any political subdivision feels aggrieved by a rule
7 or regulation or by the proposed adoption, amendment, or repeal of a
8 rule, or regulation pursuant to section 84-907.06 or believes that
9 (i) the rule or regulation or the adoption, amendment, rule, or
10 regulation or repeal is in excess of the statutory authority or
11 jurisdiction of the agency, is unconstitutional, or is inconsistent
12 with the legislative intent of the authorizing statute, or creates an
13 undue burden in a manner that significantly outweighs its benefit to
14 the public, (ii) circumstances have changed since the passage of the
15 statute which the rule or regulation implements, or (iii) the rule or
16 regulation or the amendment or repeal overlaps, duplicates, or
17 conflicts with federal, state, or local laws, rules, regulations, or
18 ordinances, the member or governing body may file a complaint with
19 the Chairperson of the Executive Board of the Legislative Council.
20 The complaint shall explain in detail the member's or governing
21 body's contentions.

22 (b) If a member of the public feels aggrieved by a rule
23 or regulation or by the adoption, amendment, or repeal of a rule or
24 regulation pursuant to section 84-907.06 or believes that (i) the
25 rule or regulation or the adoption, amendment, or repeal is in excess

1 of the statutory authority or jurisdiction of the agency, is
2 unconstitutional, is inconsistent with the legislative intent of the
3 authorizing statute, or creates an undue burden in a manner that
4 significantly outweighs its benefit to the public, (ii) circumstances
5 have changed since the passage of the statute which the rule or
6 regulation implements, or (iii) the rule or regulation or amendment
7 or repeal overlaps, duplicates, or conflicts with federal, state, or
8 local laws, rules, regulations, or ordinances, the person may file a
9 complaint signed by at least one hundred registered voters with the
10 Chairperson of the Executive Board of the Legislative Council. The
11 complaint shall explain in detail the person's contentions.

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

23 (3) The standing committee and primary sponsor of the
24 legislative bill or amendment granting rulemaking authority may
25 consider the complaint and, if such committee or primary sponsor

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

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

23 Sec. 2. Original section 84-907.10, Reissue Revised
24 Statutes of Nebraska, is repealed.