

HOUSE BILL NO. 33

INTRODUCED BY N. DURAM

BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN AGENCY TO DISMISS RULEMAKING PETITIONS ON ISSUES OUTSIDE OF ITS JURISDICTION OR RULEMAKING AUTHORITY; AMENDING SECTION 2-4-315, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-4-315, MCA, is amended to read:

"2-4-315. Petition for adoption, amendment, or repeal of rules. (1) An interested person or, when the legislature is not in session, a member of the legislature on behalf of an interested person may petition an agency requesting the promulgation, amendment, or repeal of a rule on an issue that the agency has jurisdiction to regulate.

(2) An agency may summarily dismiss ANY PORTION OF a petition that raises an issue outside of the agency's regulatory jurisdiction or rulemaking authority. In this case, an agency is not required to advance THAT PORTION OF the petition to the agency's petition acceptance procedure or rulemaking proceedings.

(3) Each agency shall determine and prescribe by rule the form for petitions and the procedure for their submission, consideration, and disposition. Within 60 days after submission of a petition, the agency either shall deny the petition in writing or shall initiate rulemaking proceedings in accordance with 2-4-302 through 2-4-305.

(4) A decision to deny a petition or to initiate rulemaking proceedings must be in writing and based on record evidence. The written decision must include the reasons for the decision AND, IN THE CASE OF A SUMMARY DISMISSAL UNDER SUBSECTION (2), MUST INCLUDE CONTACT INFORMATION FOR ANY AGENCY OR BODY WITH POTENTIAL JURISDICTION OR AUTHORITY OVER THE ISSUE RAISED IN THE PETITION. Record evidence must include any evidence submitted by the petitioner on behalf of the petition and by the agency and interested persons in response to the petition.

1 (5)____An agency may, but is not required to, conduct a hearing or oral presentation on the petition in
2 order to develop a record and record evidence and to allow the petitioner and interested persons to present
3 their views."

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5 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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