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SUMMARY OF MEETING

COMMITTEE ON LEGAL SERVICES

March 7, 2014

The Committee on Legal Services met on Friday, March 7, 2014, at 12:03 p.m. in HCR 0112. The following members were present:

Representative Labuda, Chair
Representative Foote
Representative Gardner
Representative Kagan
Senator Brophy
Senator Guzman

Representative Labuda called the meeting to order.

12:03 p.m. – The Committee addressed agenda item 1 – Action on HB 14-1123 by Representative Labuda and Senator Brophy – Rule Review Bill.

Representative Labuda said this is the rule review bill. I don't think there is anything that's in dispute in it. Does anybody have any questions about the bill?

Representative Gardner said we had the rule review bill on the agenda for a prior meeting and we took it off. At that time Representative Labuda and I had a conversation about potentially trying to add a set of regulations that had not yet been adopted and implemented. Those rules have since been adopted. I wanted to ask, to the extent you can say, is there any intent to place those air quality rules in the rule review bill between now and final approval of the bill because we're

sitting as the House committee of reference today? Is there any intent to add those rules before the end of this session?

Representative Labuda said all I know is that the rules haven't been submitted to our legal staff. I don't know exactly what's going on but we don't have them yet. I don't know if anything is going to happen with them.

12:05 p.m.

Hearing no further discussion or testimony, Senator Brophy moved House Bill 14-1123 to the committee of the whole with a favorable recommendation. Representative Gardner seconded the motion. The motion passed on a 6-0 vote, with Senator Brophy, Representative Foote, Representative Gardner, Senator Guzman, Representative Kagan, and Representative Labuda voting yes.

12:06 p.m. – Debbie Haskins, Assistant Director, Office of Legislative Legal Services, addressed agenda item 2 – Implementation of Senate Bill 13-030, relating to notification to legislators of rules implementing newly enacted legislation.

Ms. Haskins said we put this on the agenda to discuss with the Committee because you are our oversight committee for the Office. We wanted to bring to the Committee's attention a new task that the Office will be implementing as the result of a bill passed last year. Senate Bill 13-030 was a bill introduced by Senator Scheffel and Representative Nordberg and it requires that the Office identify rules that are submitted to the Office that are the result of newly enacted legislation. We have already been doing that for some time but the requirement now is that once we identify that rules have come in based on a particular piece of legislation we have to notify the bill sponsors and co-sponsors and the applicable committees of reference that heard that bill that rules have come in based on that legislation. We've been figuring out exactly how to implement this and what we've come up with is that we will do an e-mail notification to the bill sponsors and co-sponsors informing them that rules have come in based on a particular bill and the e-mail will also have a link to the actual rule. If the person wants to delve into the rule a bit more and see what the agency did with the rule, they'll be able to click on the link and it will take them right to the Secretary of State's portion of the CCR. In conversations with Senator Scheffel, we decided that it would be better to not send the e-mails out to all the committees of reference about the bill. We were a little concerned about the volume of e-mails that legislators were going

to receive as a result of this bill. In conversations between Senator Scheffel, Dan Cartin, and me, we decided that the best way to implement that piece of the statute is that we will periodically provide a chart of the information to the committees of reference that will indicate the rules that came in. Handed out to the Committee is an example of what the e-mail will look like. As you can see, there are a fair number of sponsors and co-sponsors. We thought it would be good for our oversight body to be aware of this process in case your colleagues are asking why they are getting the e-mails. I think legislators in the past have often wondered did the agency ever adopt rules to implement the bill that they worked hard to get passed and then maybe the agency never does anything. Now I think there will be more accountability and more transparency.

Representative Kagan said the e-mail will go out to the sponsors and co-sponsors but it will not go out to the committees of reference members. How are the committees of reference members notified? Ms. Haskins said they will get a paper copy of a chart that will be prepared for each committee that will show the number of rules that have come in and identifying the bills. I should say that this requirement for us to start identifying the rules goes back to November 1, 2013, and we already have 57 separate sets of rules that have come in related to recently passed legislation. We're expecting that it's going to be somewhere in the nature of 200 rules that are going to be identified annually that are the result of newly enacted legislation.

Senator Guzman asked have you thought about an annual report that goes out regarding the bills that should have rules but maybe the rules haven't been done yet, or some sort of annual report of how it looks? Ms. Haskins asked is your question about identifying the nonaction where the agency has not done the rules or are you just concerned about the total number of rules and bills?

Senator Guzman said I'm thinking more about an overall view about the pieces of legislation that passed that require rules and this is how many have complied and been implemented and how many haven't. I don't want to be policing, I just know that as I sit on the Audit committee there are many reports we get that are annual overviews of how things are going. Ms. Haskins said I think if the Committee wants that information we should be able to do that. We can try.

Senator Guzman said if it puts too much on staff, you don't need to do that. I was just curious if you already did that or not. Ms. Haskins said we'll be tracking the information in chunks. I think what you're asking for is to put those pieces together and give you a full report and I don't see any reason why we can't do that. It's a little harder to do with instances of nonaction but we can put our heads together on that as well. In the past, a number of years ago, we used to do that as part of our legislation review but we changed our processes a little bit. But I think we can certainly give you the report you're looking for.

Representative Labuda said I assume that most of the bills we have do entail rules. Is that a wrong assumption because if it is I would be curious to know what bills haven't had any rules promulgated. If I sponsor a bill about adoption, for instance, I would expect rules to be promulgated. If there are none promulgated, does that mean a department hasn't started the process of trying to put the bill into effect? Ms. Haskins said we do occasionally see instances where agencies submit rules and when we identify if there was a prior legislation, it's two or three years old. We do have that. As I said, we used to track this and we kind of stopped doing that, but I think we can certainly figure out a way to do that. Not every bill is going to have rule-making issues in it. My guess is about a third of the bills do.

Representative Kagan said there must be circumstances where it's really not clear whether you need rules or not. An agency might legitimately feel that they don't need any new rules. Ms. Haskins said that is true.

Representative Labuda said I think this might be an ongoing discussion as we figure out how to proceed with this.

12:17 p.m. – Ms. Haskins informed the Committee that she will be going on medical leave starting next week and will not be here for the next Committee meeting and maybe not until the end of session. Mike Dohr will be handling the rule review bill in her absence and Sharon Eubanks will be sitting at the table assisting with the Committee's needs during meetings.

12:19 p.m.

The Committee adjourned.