

CHAPTER 121

ADMINISTRATIVE RULE REVIEW

HOUSE BILL 95-1189

BY REPRESENTATIVES Adkins, Agler, DeGette, Kaufman, and Snyder;
also SENATORS Wattenberg, Mares, Wells, Wham, and Mutzebaugh.

AN ACT

**CONCERNING IMPLEMENTATION OF RECOMMENDATIONS OF THE COMMITTEE ON LEGAL SERVICES
IN CONNECTION WITH LEGISLATIVE REVIEW OF RULES AND REGULATIONS OF STATE AGENCIES.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Rules and regulations scheduled for expiration May 15, 1995 - extension - exceptions. (1) Except as indicated, the expiration of all rules and regulations of agencies in the following principal departments, which rules and regulations were adopted or amended on or after November 1, 1993, and before November 1, 1994, and which are therefore scheduled for expiration May 15, 1995, is postponed, and the provisions of section 24-4-108 or 24-34-104, Colorado Revised Statutes, shall apply:

- (a) Department of administration;
- (b) Department of agriculture;
- (c) Department of corrections;
- (d) Department of education; except that the following rules are not extended:

(I) Rules 2202-R-3.04 (2), 2202-R-3.06 (3)(a) and (3)(b), 2202-R-3.09 (1)(d), and 2202-R-3.13 (1), (3)(a), (3)(b), and (6)(c), concerning outcome and performance standards, of the rules of the state board of education concerning accreditation of school districts (1 CCR 301-1);

(II) Rules 2202-R-3.11 (1), (2), and (3), and 2202-R-3.12 (1), (4), (5)(a), and (5)(b), concerning certification for teachers, principals, administrators, and superintendents, of the rules of the state board of education concerning accreditation

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

of school districts (1 CCR 301-1);

(III) Rules 2260.5-R-2.02 (2), concerning expired certificates and licenses, 2260.5-R-15.00 (2)(b)(ii), concerning conviction for certain unlawful behavior, and 2260.5-R-21.04, concerning issuance of emergency authorizations, of the rules of the state board of education concerning administration of the Educator Licensing Act of 1991 (1 CCR 301-37);

(e) Department of health care policy and financing; except that the following rules are not extended:

(I) Rule 8.765.49 M. of the state board of medical services concerning rehabilitative services in residential treatment centers (10 CCR 2505-10);

(II) Rules I through VII of the regulations of the cooperative health care agreements board (10 CCR 2505-1);

(f) Department of higher education;

(g) Department of human services; except that the following rules are not extended:

(I) Rules 4.2, 5.1, 6.2, and 11.1, of the rules of the division of youth services concerning parental fee assessment (2 CCR 504-1);

(II) Rules 6.002, 6.602.5, 6.715.3, and 6.603.4 of the board of human services concerning child support obligations (9 CCR 2504-1);

(III) Rule 6.201.28, concerning the application fee in non-public assistance cases, of the board of human services concerning child support enforcement rules (9 CCR 2504-1);

(IV) Rule 6.220.53 of the board of human services concerning child support enforcement rules (9 CCR 2504-1);

(V) Rules 6.710.12, 6.712.5, and 6.712.9 H., concerning where to send payments, of the board of human services concerning child support enforcement rules (9 CCR 2504-1);

(VI) Rules 8.110.54 D. 2. and 8.110.54 D. 5., concerning transfers of property without fair consideration on or after August 11, 1993, and rule 8.110.54 D., concerning the period of ineligibility for transfer of resources, of the rules of the board of human services (10 CCR 2505-10);

(VII) Sections 8.501.31 C., 8.501.40 C., 8.505.30, 8.505.31, 8.505.32, 8.505.34 A. 5., 8.505.34 A. 7., 8.505.34 B. 4., 8.505.35 A., and 8.505.35 B., and the definition of "private nursing" in section 8.505.51, concerning HIV/AIDS services under the home and community based services - PLWA program, of the rules of the board of human services concerning medical assistance (10 CCR 2505-10);

(VIII) Section B-4110.1 B., concerning children ineligible for separate household status, of the rule of the board of human services concerning the food stamp program (10 CCR 2506-1);

(IX) Rules 7.503.615 A. 2. and 7.503.616 A. 2., concerning the family preservation program, of the rules of the state board of human services concerning child welfare services (12 CCR 2509-6);

(h) Department of labor and employment;

(i) Department of law;

(j) Department of local affairs;

(k) Department of natural resources; except that the following rule is not extended: Paragraph (2)(b), concerning waiver of the amendment fee, of section 1.10 of rule 1 of the rules of the mined land reclamation board concerning mining of all minerals other than coal (2 CCR 407-1);

(l) Department of personnel; except that the following rule is not extended: Rule P15-5-2, concerning authorized paid leaves and holidays, of the rules of the state personnel director concerning administrative procedures (4 CCR 801-2);

(m) Department of public health and environment; except that the following rules are not extended:

(I) Part A of Regulation Number 8 of the air quality control commission's rules concerning the control of hazardous air pollutants (5 CCR 1001-10);

(II) The first paragraph of Regulation Number 18 of the air quality control commission's rules concerning the control of emissions of acid deposition precursors (5 CCR 1001-22);

(III) Rules VIII A. 2., A. 3., A. 4., B. 1. c., D. 8. (3), and IX. D., concerning component design criteria, of the water quality control division's rules concerning guidelines on individual sewage disposal systems (5 CCR 1003-6);

(IV) Rules 12.6.2 (1), (3), and (4), 12.6.6, and 12.6.7, concerning transfer, discharge, and room change procedures and appeals, of chapter V of the rules of the board of health concerning standards for hospitals and health facilities (6 CCR 1011-1);

(V) Rule I. C. 1. of Regulation Number 17 concerning the definition of alternative fuel of the air quality control commission's rules concerning the clean fuel fleet program (5 CCR 1001-21);

(n) Department of public safety; except that the following rules are not extended: Rules CBI 1 A., CBI 3 E.1, and CBI 4 A., concerning the instant criminal background check system in the state of Colorado (8 CCR 1507-14);

(o) Department of regulatory agencies; except that the following rule is not

extended:

(I) Regulation 1-2-8, concerning the licensing of public insurance adjusters, of the rules of the commissioner of insurance concerning administrative procedures (3 CCR 702-1);

(II) Step 13, concerning imposition of level 1 sanction and judicial district funding limitation, of the rules of the division of criminal justice concerning the review of violations of the standards for the administration of the crime victim compensation and victim assistance and law enforcement programs and related sanctions (8 CCR 1507-15);

(III) Paragraphs 1., 2., and 3. of section III.A. of regulation 2-3-1, concerning documents to be filed with an application for licensure as a captive insurance company, of the rules of the commissioner of insurance concerning corporate issues (3 CCR 702-2);

(IV) Paragraphs (b), (c), (d), (f), and (h), concerning civil penalty considerations, of rule 12 of part II of the rules of the public utilities commission governing the filing of reports relating to gas pipeline safety (4 CCR 723-11);

(p) Department of revenue; except that the following rules are not extended:

(I) Paragraph (i) under the "Requirements" section concerning issuance of dealer license plates of the rules of the division of motor vehicles concerning license plates, inspection, registration, ownership taxes, dealers, enforcement and hearing procedures (1 CCR 204-14);

(II) The second paragraph of subsection 1. under the "Definitions" of the rules and regulations concerning the payment of specific ownership taxes on vehicles designated as class B or class C personal property which are rented to others of the rules of the division of motor vehicles concerning license plates, inspection, registration, ownership taxes, dealers, enforcement and hearing procedures (1 CCR 204-14);

(III) Subsection 2., concerning principal place of business, under the "Definitions" of the rules and regulations concerning the payment of specific ownership taxes on vehicles designated as class B or class C personal property which are rented to others of the rules of the division of motor vehicles concerning license plates, inspection, registration, ownership taxes, dealers, enforcement and hearing procedures (1 CCR 204-14);

(IV) Paragraph 11. under the "Requirements of Vehicle Rental Companies" of the rules and regulations concerning the payment of specific ownership taxes on vehicles designated as class B or class C personal property which are rented to others of the rules of the division of motor vehicles concerning license plates, inspection, registration, ownership taxes, dealers, enforcement and hearing procedures (1 CCR 204-14);

(q) Department of state; except that the following rule is not extended: Rule 6.4.1 concerning polling places of the rules of the secretary of state concerning elections

(8 CCR 1505-1);

(r) Department of transportation.

(2) The expiration of all rules and regulations of the public employees' retirement association, which rules and regulations were adopted or amended on or after November 1, 1993, and before November 1, 1994, and which are therefore scheduled for expiration May 15, 1995, is postponed.

(3) It is the opinion of the general assembly that the rules allowed to expire pursuant to the provisions of this act were adopted without authority of the state constitution or statute. Therefore, pursuant to section 24-4-103 (8) (d), Colorado Revised Statutes, any rule allowed to expire pursuant to the provisions of this act which is repromulgated shall be void unless the authority to promulgate such rule has been granted to an agency by a statutory amendment or by the state constitution or by a judicial determination that statutory or constitutional authority exists for such rule.

(4) The recommendations of the committee on legal services as reflected in this act shall apply to the specified rules in the form in which said rules were considered and acted upon by the committee. Any amendments or other changes in the specified rules which became effective before November 1, 1994, which comply with the recommendations of the committee on legal services are not affected by this act. Any subsequent amendments or other changes in the specified rules which became effective on or after November 1, 1994, are not affected by this act.

SECTION 2. Repeal - property tax instructions. Page 4.5 of instructions in the Assessors' Reference Library Volume 3, Section IV, of the division of property taxation, department of local affairs, is repealed.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 15, 1995