

Amendment to HB 274

1 Amend the bill by replacing section 1 with the following:

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3 1 Administrative Procedure Act; Notice of Rulemaking Proceedings. Amend RSA 541-A:6, III to
4 read as follows:

5 III. The agency shall send notice to the director of legislative services, to all persons
6 regulated by the proposed rules who hold occupational licenses issued by the agency, ***to past***
7 ***participants in similar rulemaking proceedings***, and to all persons who have made timely
8 request for advance notice of rulemaking proceedings. Upon request, ***or if the rule is required by***
9 ***new legislation***, the agency shall send notice to the president of the senate, to the speaker of the
10 house of representatives, and to the chairpersons of the legislative committees having jurisdiction
11 over the subject matter. Notice shall be made not less than 20 days before the first agency public
12 hearing required by RSA 541-A:11, I. Notice to occupational licensees shall be by U.S. Mail,
13 electronically, agency bulletin or newsletter, public notice advertisement in a publication of daily
14 statewide circulation, or in such other manner that is reasonably calculated to inform such licensees
15 of the proposed rulemaking. The committee may identify additional methods of notifying
16 occupational licensees that are deemed sufficient.

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18 Amend the bill by replacing section 3 with the following:

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20 3 Administrative Procedure Act; Review by the Joint Legislative Committee on Administrative
21 Rules. Amend RSA 541-A:13, VI to read as follows:

22 VI. After a final objection by the committee to a provision in the rule is filed with the
23 director under subparagraph V(f), the burden of proof shall be on the agency in any action for
24 judicial review or for enforcement of the provision to establish that the part objected to is within the
25 authority delegated to the agency, is consistent with the intent of the legislature, is in the public
26 interest, or does not have a substantial economic impact not recognized in the fiscal impact
27 statement. If the agency fails to meet its burden of proof, the court shall declare the whole or a
28 portion of the rule objected to invalid, ***and may order the agency to pay the plaintiff's legal***
29 ***expenses***. The failure of the committee to object to a rule shall not be an implied legislative
30 authorization of its substantive or procedural lawfulness.

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AMENDED ANALYSIS

This bill directs agencies to notify legislative policy committees and known stakeholders of proposed rulemaking under RSA 541-A. The bill also provides that an agency may be required to pay attorneys fees in cases in which the agency adopted rules after final objection by the joint legislative committee on administrative rules and a finding by the court that the rule is invalid.