HOUSE RESEARCH

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Information Brief

Mark Shepard, Legislative Analyst
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1986 LEGISLATION AFFECTING STATE AGENCY RULEMAKING AUTHORITY

The chart on the following pages lists rulemaking authority that the Legislature granted to state agencies in 1986. The chart also lists several instances in which the Legislature restricted or amended state agency rulemaking authority.

The chart is organized alphabetically by topic, and within each topic, by order of enactment. On page 2 is a list showing where to find rulemaking authority relating to each state agency.

Legislative Authorization

Agencies may not adopt rules unless the Legislature grants them authority to do so. Legislative grants of authority are significant because once rules are adopted they have the force of law. In granting rulemaking authority, the Legislature may limit the subject matter of the rules or may set forth other requirements for the contents of the rules. The Legislature may also pass a law taking away previously granted rulemaking authority or repealing a rule.

Administrative Procedure

The Legislature has specified a set of procedures, set forth in the Administrative Procedure Act, that agencies must follow in adopting rules. In most cases these procedures provide an opportunity for the public to demand a public hearing on proposed rules. However, when the Legislature grants an agency "emergency" rulemaking authority, the agency may put rules into effect for up to 360 days without a public hearing.

[Further information about the administrative rulemaking process is available in the information brief, "Administrative Rulemaking" by Mark Shepard (June, 1984.]

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LAWS 1986 CHAPTER	TOPIC (Agency)	SUBJECT OF RULES AFFECTED BY LEGISLATION
	AGRICULTURE; ENVIRONMENT AND NATURAL RESOURCES	
383	(Agriculture)	Rules, including emergency rules, to implement portions of the Reinvest in Minnesota act.
398	(Agriculture)	Ethical "guidelines" for farm advocates. Must establish by August 1, 1986.
398	(Commerce)	Guidelines for interest rate buy-down program, to be adopted without regard to chapter 14.
398	(Rural Finance Administration)	Rules for administration of program to restructure agricultural debt. Rules need not be adopted under chapter 14.
425	(Pollution Control Agency)	Rules establishing procedures by which a person must demonstrate that a hazardous waste can be accepted at a stabilization and containment facility.
452	(Natural Resources) (Public Safety)	Rules relating to all-terrain vehicles. Use of all terrain vehicles on streets and highways.
465	(Pollution Control Agency)	Rules governing waste water treatment control under chapter 115 or 116 may be adopted or revised only with the advice of a technical advisory committee. References to agency rules regarding applications for wastewater treatment facility construction grants or loans. Does not appear to be new rulemaking authority.
Special Session 1	(State Court Administrator)	Rules, under chapter 14, to implement farmer-lender mediation act. May adopt emergency rules.
	COMMERCE	
339	(Commerce)	Rules relating to interstate banking, including: applications, rating lending performance of financial institutions, provision of developmental loans, and reciprocal interstate banking by savings and loan institutions.

LAWS 1986 CHAPTER	TOPIC (Agency)	SUBJECT OF RULES AFFECTED BY LEGISLATION
	COMMERCE (Continued)	
358	(Commerce)	Permits adoption of rules prescribing information that must be provided to the commissioner in order for certain transactions to be exempt from certain regulation of securities. Rules concerning cease and desist proceedings under chapter governing real estate licensees.
375	(Agriculture)	Rules covering persons who manufacture, sell or dispense soft drinks and other nonalcoholic beverages. Rules must include sanitary practices involving beverage manufacturing plants, beverage dispensing equipment, and use of sterile containers in packing beverages for home consumption.
397	(Commerce)	Rules to implement act regulating long-term care policies. Provides for permissible contents of rules.
455	(Commerce)	Rules on content and approval of bylaws or plans of operation under nonprofit risk indemnification trust act. Rules on minimum financial standards for authorized trust funds. Rules on amount of security and forms of security for authorized trust funds. Rules to enforce and administer nonprofit risk indemnification trust act.
	HEALTH AND HUMAN SERVICES	
316	(Health)	Policies and procedures developed by commissioner of health for inspection of care required by federal law shall remain in effect until June 30, 1987, instead of June 30, 1986.

LAWS 1986 CHAPTER	TOPIC (Agency)	SUBJECT OF RULES AFFECTED BY LEGISLATION
	HEALTH AND HUMAN SERVICES (Continued)	
316	(Health, Human Services)	Emergency rules related to licensure requirement of boarding care homes and nursing homes shall be effective until June 30, 1987, instead of June 30, 1986.
349	(Health, Human Services)	State planning agency to study possible consolidation of rules promulgated by departments of health and human services related to mental health licensing functions.
371	(Public Safety, Health, Human Services)	Must adopt applicable standards from the 1985 life safety code and amend existing rules governing life safety to be consistent with 1985 code, for intermediate care facilities for persons with mental retardation, to extent allowed by federal law. The standards and amendments shall be adopted without rulemaking and are effective 30 days following publication in the State Register.
402	(Health)	Commissioner of health may adopt rules to evaluate whether a person's past practical plumbing experience is applicable in preparing for journeyman's examination.
404	(Human Services)	Emergency and permanent rules to implement program of grants for child care information and referral agencies.
414	(Human Services)	Amend permanent rules to govern applications, criteria for approval, and other areas necessary to implement program of subsidies to enable families to care for dependents with handicaps in their own home.
420	(Human Services)	For purposes of establishing interim rates paid to inpatient hospitals for services under medical assistance and general assistance medical care programs, the commissioner is exempt from chapter 14.

LAWS 1986 CHAPTER	TOPIC (Agency)	SUBJECT OF RULES AFFECTED BY LEGISLATION
	HEALTH AND HUMAN SERVICES (Continued)	
420	(Human Services)	Rules governing procedures for determining alternative care grant reallocations, limits on rates for payment of approved services, and approval of biennial county plans for administration of preadmission screening and alternative care grants programs. Rules regarding appeals of decisions relating to intermediate care facilities for mentally retarded persons.
421	(Health)	Rules relating to scheduled air ambulance services.
	TRANSPORTATION	
398	(Transportation)	Rules defining "significant centers of population and commerce" and "temporary emergency service" for purposes of section dealing with "market arteries".
398	(Transportation Regulation Board)	"Guidelines", adopted without regard to chapter 14, to amend sections relating to railroad property interests. Final "rules" must be adopted within 360 days of the effective date of the section.
454	(Transportation)	Standards for trunk highway segments located in areas of unusual scenic interest, and recreational use plans for right of ways in these areas. The recreational use plan is subject to the APA; the other standards are not.
	OTHER	
330	(State Board of Education)	"Guidelines" for distribution of grants to develop alcohol impaired driver education programs in schools.
356	(State Retirement System)	Rules relating to state deferred compensation program are not subject to the administrative procedure act.
359	(State Auditor)	Prescribe suitable systems of accounts and budgeting for unaudited local fire and police relief associations.

LAWS 1986 CHAPTER	TOPIC (Agency)	SUBJECT OF RULES AFFECTED BY LEGISLATION
	OTHER (Continued)	
377	(Administrative Hearings)	Chief administrative law judge to make rules establishing uniform procedures for submission and consideration of applications for awards of fees and expenses in a contested case proceeding.
409	(Public Utilities Commission)	Rules prescribing permissible and impermissible ex parte communications with commissioners of the public utilities commission. Rules prescribing a code of conduct for commissioners and employees of the public utilities commission. Authorizes emergency rules for this purpose.
423	(Public Safety)	Rules to implement trust fund for prevention of child abuse and neglect program.
436	(All agencies)	Most state agency fees not fixed by law must be fixed by rule. Amends current law so that hearings will be required on these rules under the same conditions as hearings are required for other rules under the APA. Eliminates requirement that in order to have a hearing 20 percent of the people who will be required to pay the fee must request a hearing.
465		Chapter 14 does not apply to any state agency, entity or the Governor acting under the bond allocation act.
467	(Charitable Gambling Board)	Rules on administration of section governing use of profits from lawful gambling. Rules on manner of payment of tax on pull-tabs, and recordkeeping regarding this tax.
470	(Revenue)	Rules, including emergency rules, for administration of sections on pull-tab tax. Rules on enforcement of law relating to tax on controlled substances.
Special Session 1	(Revenue)	Emergency and permanent rules to implement ethanol development program.

LAWS 1986 CHAPTER	TOPIC (Agency)	SUBJECT OF RULES AFFECTED BY LEGISLATION
	OTHER (Continued)	
Special Session 1	(State University Board)	Sections 14.01 to 14.47 do not apply to policies and procedures of the board.
Special Session 1	(Public Safety)	Rules establishing form and content of hazardous substance notification report form under community emergency response hazardous substances protection act. Rules allowing fire departments to require employers to post signs relating to hazardous substances. Criteria and guidelines, exempt from the APA, for disbursement of funds to administer community emergency reponse hazardous substances protection act.