



## **Departmental Rulemaking Policy and Procedures** **Soliciting Input from Local Governments**

Effective January 1, 2014

### **INTRODUCTION**

During the 2012 session, the state legislature adopted [Senate Bill 12-026](#) concerning state agency rules that create a state mandate on a local governments. In accordance with the act<sup>1</sup>, if a state agency proposes a rule that creates a state mandate on local government, the agency must provide the Director of the Office of State Planning and Budgeting a detailed report. After submitting the report, the agency must receive the Director's approval before commencing with rulemaking. One section of the report must describe the nature and extent of consultations with elected officials or other representatives of the local government affected by the proposed state mandate, concerns of local government representatives, and written communication or comments submitted to the agency by local government representatives.

### **PURPOSE & APPLICABILITY**

In accordance with the act, the Secretary of State adopts the following process to actively solicit meaningful and timely input from elected officials and other local government representatives regarding proposed rules with state mandates affecting local governments. The Secretary of State will follow this process for all permanent rulemaking when proposed rules include a state mandate.

### **PROCEDURE**

When a division contemplates permanent rulemaking and enters the preliminary drafting phase, division and program leadership, related subject matter experts, and the Department Rulemaking Manager will collaborate to assess whether a proposed rule includes a state mandate that may affect a local government.

1. If a proposed rule has the potential to negatively affect a local government, the Department Rulemaking Manager will schedule a pre-notice of rulemaking written comment period. Our office will develop and release preliminary draft rules to the public and the interested parties or organizations for comment. The Secretary of State will allow at least one week for written comments.

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<sup>1</sup> Section 24-4-103(2.7)(d), C.R.S.

The Department Rulemaking Manager will develop and maintain interested party lists for each rulemaking subject matter. Our office is currently aware of the following interested parties and local government organizations:

- a. Colorado County Clerks  
[Email list maintained by the Secretary of State Elections Division]
- b. Interested parties who request rulemaking notices and alerts  
[Email list maintained by the Department Rulemaking Manager]
- c. Individuals who sign up on the Secretary of State website to receive email updates concerning “Rules and Notices of Rulemaking Updates”  
[Govdelivery subscribers]
- d. Colorado County Clerks Association  
[[ccca\\_info@clerkandrecorder.org](mailto:ccca_info@clerkandrecorder.org)]
- e. Special District Association of Colorado (SDA)  
[[sdaco@sdaco.org](mailto:sdaco@sdaco.org)]
- f. Colorado Municipal League (CML)  
[[cml@cml.org](mailto:cml@cml.org)]
- g. First Assistant Attorney General of the Public Officials Unit

Individuals and organizations may subscribe to receive email notices and updates concerning Secretary of State rulemaking by contacting the Department Rulemaking Manager at [Sos.Rulemaking@sos.state.co.us](mailto:Sos.Rulemaking@sos.state.co.us).

2. Upon receipt, the Department Rulemaking Manager will post copies of the comments on the Secretary of State’s website. (Please note, the state will redact sensitive information including home address, phone number, or personal email addresses before posting online). In addition, our office will retain copies of comments in the official rulemaking record.
3. The state will consider all comments, recommended amendments, and proposed draft language in the development of the proposed rules. Our office may request additional information from commenters as necessary.
4. In accordance with the act<sup>2</sup>, the state will provide a description of the proposed rulemaking, including the information and comments received during the pre-notice of rulemaking period, to the Director of the Office of State Planning and Budgeting for review.

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<sup>2</sup> Section 24-4-103(2.7)(c), C.R.S.

5. When the state receives a written notice of compliance from the Director of the Office of State Planning and Budgeting, our office will commence formal rulemaking in accordance with the State Administrative Procedure Act<sup>3</sup>.
6. The public and interested parties may provide testimony or written comments during the rulemaking hearing. In addition, our office will provide a post-hearing written comment period before the state adopts the rules.

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<sup>3</sup> Section 24-4-103(3)(a), C.R.S.