

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 1.2.104 and ARM 1.2.423 ) PROPOSED AMENDMENT  
pertaining to fees charged by )  
Administrative Rules Services )

TO: All Concerned Persons

1. On November 18, 2016, at 10:00 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Office Conference Room, Room 260, State Capitol Building, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Secretary of State no later than 5:00 p.m. on November 10, 2016, to advise us of the nature of the accommodation that you need. Please contact Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 431-7718; fax (406) 444-4249; TDD/Montana Relay Service (406) 444-9068; or e-mail [jquintana@mt.gov](mailto:jquintana@mt.gov).

3. The Secretary of State proposes to amend the above-stated rules as follows, new matter underlined, deleted matter interlined:

1.2.104 ADMINISTRATIVE RULES SERVICES FEES (1) and (2) remain the same.

(3) The cost for the Register is as follows:

(a) per calendar year (24 issues) \$325.00 \$ 350.00  
(b) per issue \$ 13.50

(4) The costs for the ARM ~~are~~ is as follows:

(a) initial purchase of ARM (full set) ~~\$500.00~~ \$ 2,500.00  
(b) quarterly ~~issues~~ updates to ARM,  
per calendar year (yearly subscription) \$ 300.00

~~(c) (i)~~ (i) partial year subscriptions will be prorated.

(5) ~~Individual~~ The cost for individual ARM titles ~~charges are~~ is as follows:

~~(a) initial purchase of single part title~~ \$60.00  
~~(b) initial purchase of multi-part titles:~~  
(i) ~~first part~~ \$60.00  
(ii) ~~each additional part~~ \$40.00  
(c) ~~quarterly updates to individual titles,~~  
per calendar year \$60.00  
Title 1 \$ 30.00  
Title 2 105.00  
Title 4 70.00

|                            |        |
|----------------------------|--------|
| Title 6                    | 90.00  |
| Title 8                    | 110.00 |
| Title 10, Part 1           | 60.00  |
| Title 10, Part 2           | 90.00  |
| Title 10, All Parts (1-2)  | 135.00 |
| Title 14                   | 25.00  |
| Title 17, Part 1           | 100.00 |
| Title 17, Part 2           | 95.00  |
| Title 17, Part 3           | 60.00  |
| Title 17, All Parts (1-3)  | 240.00 |
| Title 18                   | 55.00  |
| Title 20                   | 45.00  |
| Title 23                   | 75.00  |
| Title 24, Part 1           | 80.00  |
| Title 24, Part 2           | 105.00 |
| Title 24, Part 3           | 100.00 |
| Title 24, Part 4           | 95.00  |
| Title 24, All Parts (1-4)  | 355.00 |
| Title 30                   | 25.00  |
| Title 32                   | 60.00  |
| Title 34                   | 25.00  |
| Title 36                   | 105.00 |
| Title 37, Part 1           | 100.00 |
| Title 37, Part 2           | 100.00 |
| Title 37, Part 3           | 100.00 |
| Title 37, Part 4           | 85.00  |
| Title 37, Part 5           | 75.00  |
| Title 37, Part 6           | 100.00 |
| Title 37, All Parts (1-6)  | 515.00 |
| Title 38                   | 80.00  |
| Title 42, Part 1           | 90.00  |
| Title 42, Part 2           | 65.00  |
| Title 42, All Parts (1-2)  | 145.00 |
| Title 44                   | 45.00  |
| Topical Index              | 90.00  |
| Additional Part, Any Title | 25.00  |

Quarterly updates to individual ARM titles,  
per calendar year (yearly subscription) (partial year  
subscriptions will be prorated) \$ 60.00

(6) through (8) remain the same.

(9) To purchase any rules publication, contact Administrative Rules Services,  
P.O. Box 202801, Helena MT 59620-2801, by phone (406) 444-2055, or e-mail  
sosarm@mt.gov.

AUTH: 2-15-401, 2-15-405, MCA

IMP: 2-4-305, 2-4-311, 2-4-312, 2-4-313, 2-15-405, MCA

1.2.423 AGENCY FILING FEES (1) Each agency shall pay a ~~\$50.00~~ \$60.00 per page filing fee for all pages the agency has ~~printed~~ published in the Register. The Secretary of State bills on a per-issue basis for all pages ~~printed~~ published.

AUTH: ~~2-4-313~~, 2-15-401, 2-15-405, MCA  
IMP: 2-4-313, 2-15-405, MCA

REASON: The Secretary of State is required by 2-15-405, MCA, to "set by administrative rule each fee authorized by law." Each fee "must be commensurate with the overall costs of the office," "must reasonably reflect the prevailing rates charged in the public and private sectors for similar services," and "fees collected by the secretary of state must be deposited to an account in the enterprise fund type to the credit of the secretary of state." An "enterprise fund" structure means the Secretary of State operates as a proprietary fund agency. The office of the Secretary of State is financed and operated similarly to a private business, and it is the Legislature's intent that the Secretary of State recovers all costs primarily through user charges. See Montana Operations Manual, 302 Government Accounting Overview.

The fees charged by the Administrative Rules Section were last changed over ten years ago. Since that time, the costs of publishing, printing, and mailing hard-copy versions of the administrative rules and the Register have steadily increased. Recently, the Secretary of State filled a request for a full set of the Administrative Rules of Montana (ARM). In doing so, the Secretary of State was able to discern the actual current cost of printing individual titles, as well as a full set of the ARM. In light of those costs, and the associated postage and processing costs, the fees in ARM 1.2.104(4)(a) and (5) are being revised make the fees commensurable with the current cost to the Secretary of State of producing those products. Notably, while many of the individual ARM title fees increased, some decreased, and some remained the same.

Additionally, for the past four fiscal years, the revenue generated by the existing fee for the yearly subscription of the Register has not covered the actual costs of printing and mailing the Register hard-copies. For instance, total revenue generated by the Administrative Rules Section in July and August of 2016 was \$12,630, while expenditures for that period were \$35,567, resulting in a deficit of \$22,937. The increase in ARM 1.2.104(3)(a) is designed to help reduce that deficit.

Finally, as indicated above, the cost of publishing state agency materials in the Register and state agency rules in the ARM has increased over the last 10 years. The increase in ARM 1.2.423 is designed to help offset those increased costs. The change in language from "printed" to "published" in ARM 1.2.423 is being proposed to more accurately reflect the fact the Secretary of State publishes the submitted pages.

The authority and implementation statutes were reviewed and updated.

4. Pursuant to 2-4-302, MCA, the Secretary of State has determined the cumulative dollar amount for all persons of the proposed fees in ARM 1.2.104(3)(a) is \$800 and the number of persons affected is 32, based on the current paid subscribers to the Register.

5. Pursuant to 2-4-302, MCA, the Secretary of State is unable to include with any certainty an estimate of the cumulative dollar amount for all persons of the fees to be charged in ARM 1.2.104(4)(a) and (5) or the number of persons affected by the change in fees because of the sporadic nature of orders for ARM full sets and individual titles. Based on historic sales, however, the cumulative dollar amount is expected to be less than \$300 and the number of affected persons is expected to be fewer than five. The Secretary of State has not sold any ARM full sets in the last several years and has sold only a few individual titles. For example, this fiscal year, the Secretary of State has sold only one individual title. Last fiscal year, the Secretary of State sold one individual title; in fiscal year 2015, it sold three individual titles; in fiscal year 2014 it sold seven individual titles; and in fiscal year 2013 it sold four individual titles.

6. Pursuant to 2-4-302, MCA, the Secretary of State has determined the cumulative dollar amount for all persons of the proposed fee in ARM 1.2.423 is \$20,000 based on the number of pages published in the Register in the last four fiscal years. All state agencies who publish information in the Register will be affected by the fee change; historically that has included 18 different agencies.

7. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing [jquintana@mt.gov](mailto:jquintana@mt.gov), and must be received no later than 5:00 p.m., November 25, 2016.

8. Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, has been designated to preside over and conduct the hearing.

9. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding administrative rules, corporations, elections, notaries, records, uniform commercial code, or combination thereof. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1236 Sixth Avenue, P.O. Box 202801, Helena, MT 59620-2801, faxed to the office at (406) 444-4263, or may be made by completing a request form at any rules hearing held by the Secretary of State's Office.

10. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of

State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

11. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

12. With regard to the requirements of 2-4-111, MCA, the Secretary of State has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ JORGE QUINTANA  
Jorge Quintana  
Rule Reviewer

/s/ LINDA MCCULLOCH  
Linda McCulloch  
Secretary of State

Dated this 17th day of October, 2016.