

SENATE BILL No. 877

November 2, 1999, Introduced by Senators HAMMERSTROM, STEIL and NORTH and referred to the Committee on Government Operations.

A bill to amend 1969 PA 306, entitled "Administrative procedures act of 1969," by amending the title and sections 5, 7, 7a, 8, 24, 25, 33, 36, 40, 41a, 42, 44, 45, 46, 47, 48, 52, 53, 55, 56, 57, 58, and 59 (MCL 24.205, 24.207, 24.207a, 24.208, 24.224, 24.225, 24.233, 24.236, 24.240, 24.241a, 24.242, 24.244, 24.245, 24.246, 24.247, 24.248, 24.252, 24.253, 24.255, 24.256, 24.257, 24.258, and 24.259), the title as amended by 1993 PA 7, sections 5, 24, 52, and 56 as amended by 1982 PA 413, section 7 as amended by 1996 PA 489, sections 7a, 40, and 53 as added by 1984 PA 273, sections 8 and 57 as amended by 1988 PA 333, sections 42, 44, 45, and 46 as amended by 1993 PA 141, sections 48, 55, and 58 as amended by 1986 PA 292, and section 59 as amended by 1995 PA 178, and by adding sections 28, 34, 39, 39a, 45a, and 54.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to provide for the effect, processing, promulgation,
3 publication, and inspection of state agency rules, determina-
4 tions, and other matters; to provide for the printing, publish-
5 ing, and distribution of ~~the Michigan register~~ CERTAIN
6 PUBLICATIONS; to provide for state agency administrative proce-
7 dures and contested cases and appeals from contested cases in
8 licensing and other matters; TO CREATE AND ESTABLISH CERTAIN COM-
9 MITTEES AND OFFICES; to provide for declaratory judgments as to
10 rules; to repeal certain acts and parts of acts; and to repeal
11 certain parts of this act on a specific date.

12 Sec. 5. (1) "License" includes the whole or part of an
13 agency permit, certificate, approval, registration, charter, or
14 similar form of permission required by law, but does not include
15 a license required solely for revenue purposes, or a license or
16 registration issued under ~~Act No. 300 of the Public Acts of~~
17 ~~1949, as amended, being sections 257.1 to 257.923 of the Michigan~~
18 ~~Compiled Laws~~ THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.1
19 TO 257.923.

20 (2) "Licensing" includes agency activity involving the
21 grant, denial, renewal, suspension, revocation, annulment, with-
22 drawal, recall, cancellation, or amendment of a license.

23 (3) "Michigan register" means the publication described in
24 section 8.

1 (4) "NOTICE OF OBJECTION" MEANS THE DOCUMENT ADOPTED BY THE
2 COMMITTEE THAT INDICATES THE COMMITTEE'S FORMAL OBJECTION TO A
3 PROPOSED RULE.

4 (5) ~~(4)~~ "Party" means a person or agency named, admitted,
5 or properly seeking and entitled of right to be admitted, as a
6 party in a contested case.

7 (6) ~~(5)~~ "Person" means an individual, partnership, associ-
8 ation, corporation, governmental subdivision, or public or pri-
9 vate organization of any kind other than the agency engaged in
10 the particular processing of a rule, declaratory ruling, or con-
11 tested case.

12 (7) ~~(6)~~ "Processing of a rule" means the action required
13 or authorized by this act regarding a rule which is to be promul-
14 gated, including the rule's adoption, and ending with the rule's
15 promulgation.

16 (8) ~~(7)~~ "Promulgation of a rule" means that step in the
17 processing of a rule consisting of the filing of a rule with the
18 secretary of state.

19 Sec. 7. "Rule" means an agency regulation, statement, stan-
20 dard, policy, ruling, or instruction of general applicability
21 that implements or applies law enforced or administered by the
22 agency, or that prescribes the organization, procedure, or prac-
23 tice of the agency, including the amendment, suspension, or
24 rescission of the law enforced or administered by the agency.
25 Rule does not include any of the following:

26 (a) A resolution or order of the state administrative
27 board.

1 (b) A formal opinion of the attorney general.

2 (c) A rule or order establishing or fixing rates or
3 tariffs.

4 (d) A rule or order pertaining to game and fish and promul-
5 gated under ~~part 411 (protection and preservation of fish, game,~~
6 ~~and birds)~~ PARTS 401, 411, AND 487 of the natural resources and
7 environmental protection act, ~~Act No. 451 of the Public Acts of~~
8 ~~1994, being sections 324.41101 to 324.41105 of the Michigan~~
9 ~~Compiled Laws, part 487 (sport fishing) of Act No. 451 of the~~
10 ~~Public Acts of 1994, being sections 324.48701 to 324.48740 of the~~
11 ~~Michigan Compiled Laws, and part 401 (wildlife conservation) of~~
12 ~~Act No. 451 of the Public Acts of 1994, being sections 324.40101~~
13 ~~to 324.40119 of the Michigan Compiled Laws~~ 1994 PA 451,
14 MCL 324.40101 TO 324.40119, 324.41101 TO 324.41105, AND 324.48701
15 TO 324.48740.

16 (e) A rule relating to the use of streets or highways, the
17 substance of which is indicated to the public by means of signs
18 or signals.

19 (f) A determination, decision, or order in a contested
20 case.

21 (g) An intergovernmental, interagency, or intra-agency memo-
22 randum, directive, or communication that does not affect the
23 rights of, or procedures and practices available to, the public.

24 (h) A form with instructions, an interpretive statement, a
25 guideline, an informational pamphlet, or other material that in
26 itself does not have the force and effect of law but is merely
27 explanatory.

1 (i) A declaratory ruling or other disposition of a
2 particular matter as applied to a specific set of facts
3 involved.

4 (j) A decision by an agency to exercise or not to exercise a
5 permissive statutory power, although private rights or interests
6 are affected.

7 (k) Unless another statute requires a rule to be promulgated
8 under this act, a rule or policy that only concerns the inmates
9 of a state correctional facility and does not directly affect
10 other members of the public, except that a rule that only con-
11 cerns inmates which was promulgated before December 4, 1986,
12 shall be considered a rule and shall remain in effect until
13 rescinded but shall not be amended. As used in this subdivision,
14 "state correctional facility" means a facility or institution
15 that houses an inmate population under the jurisdiction of the
16 department of corrections.

17 (l) All of the following, after final approval by the cer-
18 tificate of need commission or the statewide health coordinating
19 council under section 22215 or 22217 of the public health code,
20 ~~Act No. 368 of the Public Acts of 1978, being sections 333.22215~~
21 ~~and 333.22217 of the Michigan Compiled Laws 1978 PA 368,~~
22 MCL 333.22215 AND 333.22217:

23 (i) The designation, deletion, or revision of covered medi-
24 cal equipment and covered clinical services.

25 (ii) Certificate of need review standards.

26 (iii) Data reporting requirements and criteria for
27 determining health facility viability.

1 (iv) Standards used by the department of ~~public~~ COMMUNITY
2 health in designating a regional certificate of need review
3 agency.

4 (v) The modification of the 100 licensed bed limitation for
5 short-term nursing care programs set forth in section 22210 of
6 ~~Act No. 368 of the Public Acts of 1978, being section 333.22210~~
7 ~~of the Michigan Compiled Laws~~ THE PUBLIC HEALTH CODE, 1978
8 PA 368, MCL 333.22210.

9 (m) A policy developed by the family independence agency
10 under section 6(3) of the social welfare act, ~~Act No. 280 of the~~
11 ~~Public Acts of 1939, being section 400.6 of the Michigan Compiled~~
12 ~~Laws~~ 1939 PA 250, MCL 400.6, setting income and asset limits,
13 types of income and assets to be considered for eligibility, and
14 payment standards for administration of assistance programs under
15 that act.

16 (n) A policy developed by the family independence agency
17 under section 6(4) of ~~Act No. 280 of the Public Acts of 1939,~~
18 ~~being section 400.6 of the Michigan Compiled Laws~~ THE SOCIAL
19 WELFARE ACT, 1939 PA 280, MCL 400.6, to implement requirements
20 that are mandated by federal statute or regulations as a condi-
21 tion of receipt of federal funds.

22 ~~(o) Until the expiration of 12 months after the effective~~
23 ~~date of this subdivision, a regulation issued by the family inde-~~
24 ~~pendence agency under section 6(2) of Act No. 280 of the Public~~
25 ~~Acts of 1939 setting standards and policies for the administra-~~
26 ~~tion of programs under that act. Upon the expiration of 12~~
27 ~~months after the effective date of this subdivision, regulations~~

1 ~~described in this subdivision are not binding and effective~~
 2 ~~unless processed as emergency rules under section 48 or promul-~~
 3 ~~gated in accordance with this act. This subdivision does not~~
 4 ~~apply to policies permanently exempted under subdivisions (m) and~~
 5 ~~(n).~~

6 (O) ~~(p) Beginning on the effective date of the amendatory~~
 7 ~~act that added this subdivision and until 3 years after that~~
 8 ~~date, the~~ THE provisions of an agency's contract with a public
 9 or private entity including, but not limited to, the provisions
 10 of an agency's standard form contract.

11 (P) A POLICY DEVELOPED BY THE DEPARTMENT OF COMMUNITY HEALTH
 12 UNDER THE AUTHORITY GRANTED IN SECTION 111A OF THE SOCIAL WELFARE
 13 ACT, 1939 PA 280, MCL 400.111A, TO IMPLEMENT POLICIES AND PROCE-
 14 DURES NECESSARY TO OPERATE ITS HEALTH CARE PROGRAMS IN ACCORDANCE
 15 WITH AN APPROVED STATE PLAN OR IN COMPLIANCE WITH STATE STATUTE.

16 Sec. 7a. ~~(1)~~ "Small business" means a business concern
 17 incorporated or doing business in this state, including the
 18 affiliates of the business concern, which is independently owned
 19 and operated and which employs fewer than 250 full-time employees
 20 or which has gross annual sales of less than \$6,000,000.00.

21 ~~(2) "Small business economic impact statement" means a~~
 22 ~~statement prepared by a state agency which meets the requirements~~
 23 ~~of section 45(3).~~

24 Sec. 8. (1) The ~~legislative service bureau~~ OFFICE OF
 25 REGULATORY REFORM shall publish the Michigan register AT LEAST
 26 ONCE each month. The Michigan register shall contain all of the
 27 following:

1 (a) Executive orders and executive reorganization orders.

2 (b) On a cumulative basis, the numbers and subject matter of
3 the enrolled senate and house bills signed into law by the gover-
4 nor during the calendar year and the corresponding public act
5 numbers.

6 (c) On a cumulative basis, the numbers and subject matter of
7 the enrolled senate and house bills vetoed by the governor during
8 the calendar year.

9 (d) Proposed administrative rules.

10 ~~(e) Small business economic impact statements on proposed~~
11 ~~rules as required by section 45.~~

12 (E) ~~(f)~~ Notices of public hearings on proposed administra-
13 tive rules.

14 (F) ~~(g)~~ Administrative rules filed with the secretary of
15 state.

16 (G) ~~(h)~~ Emergency rules filed with the secretary of
17 state.

18 (H) ~~(i)~~ Notice of proposed and adopted agency guidelines.

19 (I) ~~(j)~~ Other official information considered necessary or
20 appropriate by the ~~legislative service bureau~~ OFFICE OF REGULA-
21 TORY REFORM.

22 (J) ~~(k)~~ Attorney general opinions.

23 (K) ~~(l)~~ All of the items listed in section 7(l) after
24 final approval by the certificate of need commission or the
25 statewide health coordinating council under section 22215 or
26 22217 of the public health code, ~~Act No. 368 of the Public Acts~~

1 of 1978, being sections ~~333.22215 and 333.22217~~ of the Michigan
2 ~~Compiled Laws~~ 1978 PA 368, MCL 333.22215 AND 333.22217.

3 (2) The ~~legislative service bureau~~ OFFICE OF REGULATORY
4 REFORM shall publish a cumulative index for the Michigan
5 register.

6 (3) The Michigan register shall be available for public sub-
7 scription at a fee reasonably calculated to cover publication and
8 distribution costs.

9 (4) If publication of an agency's proposed rule ~~,~~ OR
10 guideline ~~,~~ or ~~small business economic impact statement~~ or an
11 item described in subsection ~~-(1)(l)-~~ (1)(K) would be unreason-
12 ably expensive or lengthy, the ~~legislative service bureau~~
13 OFFICE OF REGULATORY REFORM may publish a brief synopsis of the
14 proposed rule ~~,~~ OR guideline ~~,~~ ~~small business impact~~
15 ~~statement,~~ or item described in subsection ~~-(1)(l)-~~ (1)(K),
16 including information on how to obtain a complete copy of the
17 proposed rule ~~,~~ OR guideline ~~,~~ ~~small business impact~~
18 ~~statement,~~ or item described in subsection ~~-(1)(l)-~~ (1)(K) from
19 the agency at no cost.

20 (5) An agency shall transmit a copy of the ~~small business~~
21 ~~economic impact statement,~~ together with the applicable proposed
22 rules and notice of public hearing ~~,~~ to the ~~legislative serv-~~
23 ~~ice bureau~~ OFFICE OF REGULATORY REFORM for publication in the
24 Michigan register.

25 Sec. 24. (1) Before the adoption of a guideline, an agency
26 shall give notice of the proposed guideline to the ~~joint-~~
27 committee, ~~on administrative rules,~~ the legislative service

1 ~~bureau,~~ the office of ~~the governor~~ REGULATORY REFORM, and each
2 person who requested the agency in writing for advance notice of
3 proposed action which may affect the person. THE COMMITTEE SHALL
4 PROVIDE THE NOTICE OF THE PROPOSED GUIDELINE TO MEMBERS OF THE
5 COMMITTEE AND TO MEMBERS OF THE STANDING COMMITTEES OF THE SENATE
6 AND HOUSE OF REPRESENTATIVES THAT DEAL WITH THE SUBJECT MATTER OF
7 THE PROPOSED GUIDELINE. The notice shall be given by mail, in
8 writing, to the last address specified by the person. A request
9 for notice is renewable each December.

10 (2) The notice required by subsection (1) shall include all
11 of the following:

12 (a) A statement of the terms or substance of the proposed
13 guideline, a description of the subjects and issues involved, and
14 the proposed effective date of the guideline.

15 (b) A statement that the addressee may express any views or
16 arguments regarding the proposed guideline or the guideline's
17 effect on a person.

18 (c) The address to which written comments may be sent and
19 the date by which comments shall be mailed, which date shall not
20 be less than ~~60~~ 35 days from the date of the mailing of the
21 notice.

22 (d) A reference to the specific statutory provision about
23 which the proposed guideline states a policy.

24 Sec. 25. When adopted, a guideline is a public record.
25 Copies of guidelines shall be sent to the ~~joint~~ committee, ~~on~~
26 ~~administrative rules, the legislative service bureau,~~ the office
27 of ~~the governor~~ REGULATORY REFORM, and all persons who have

1 requested the agency in writing for advance notice of proposed
2 action which may affect them.

3 SEC. 28. (1) BEFORE THE ADOPTION OF A STANDARD FORM CON-
4 TRACT THAT WOULD HAVE BEEN CONSIDERED A RULE BUT FOR THE EXEMP-
5 TION FROM RULEMAKING UNDER SECTION 7(O) OR A POLICY EXEMPT FROM
6 RULEMAKING UNDER SECTION 7(P), AN AGENCY SHALL GIVE NOTICE OF THE
7 PROPOSED STANDARD FORM CONTRACT OR POLICY TO THE COMMITTEE AND
8 THE OFFICE OF REGULATORY REFORM. THE COMMITTEE SHALL PROVIDE A
9 COPY OF THE NOTICE TO MEMBERS OF THE COMMITTEE AND TO MEMBERS OF
10 THE STANDING COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTA-
11 TIVES THAT DEAL WITH THE SUBJECT MATTER OF THE PROPOSED STANDARD
12 FORM CONTRACT OR POLICY.

13 (2) THE NOTICE REQUIRED BY SUBSECTION (1) SHALL INCLUDE ALL
14 OF THE FOLLOWING:

15 (A) A STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED
16 STANDARD FORM CONTRACT OR POLICY, A DESCRIPTION OF THE SUBJECTS
17 AND ISSUES INVOLVED, AND THE PROPOSED EFFECTIVE DATE OF THE STAN-
18 DARD FORM CONTRACT OR POLICY.

19 (B) A STATEMENT THAT THE ADDRESSEE MAY EXPRESS ANY VIEWS OR
20 ARGUMENTS REGARDING THE PROPOSED STANDARD FORM CONTRACT OR POLICY
21 OR THE STANDARD FORM CONTRACT'S OR POLICY'S EFFECT ON A PERSON.

22 (C) THE ADDRESS TO WHICH COMMENTS MAY BE SENT AND THE DATE
23 BY WHICH THE COMMENTS SHALL BE MAILED, WHICH DATE SHALL NOT BE
24 LESS THAN 35 DAYS FROM THE DATE OF THE MAILING OF THE NOTICE.

25 (D) A REFERENCE TO THE SPECIFIC STATUTORY PROVISION UNDER
26 WHICH THE STANDARD FORM CONTRACT OR POLICY IS ISSUED.

1 (3) IF THE VALUE OF A PROPOSED STANDARD FORM CONTRACT EXEMPT
2 FROM RULEMAKING UNDER SECTION 7(O) IS \$10,000,000.00 OR MORE, THE
3 NOTICE REQUIRED UNDER SUBSECTION (1) SHALL INCLUDE A COPY OF THE
4 PROPOSED STANDARD FORM CONTRACT. IF THE VALUE OF THE PROPOSED
5 STANDARD FORM CONTRACT EXEMPT FROM RULEMAKING UNDER SECTION 7(O)
6 IS LESS THAN \$10,000,000.00, THE DEPARTMENT SHALL PROVIDE A COPY
7 OF THE PROPOSED STANDARD FORM CONTRACT OR POLICY TO ANY LEGISLA-
8 TOR REQUESTING A COPY.

9 Sec. 33. (1) An agency shall promulgate rules describing
10 its organization and stating the general course and method of its
11 operations and may include therein forms with instructions.
12 Sections 41, ~~and~~ 42, 45, AND 45A do not apply to such rules.

13 (2) An agency shall promulgate rules prescribing its proce-
14 dures available to the public and the methods by which the public
15 may obtain information and submit requests.

16 (3) An agency may promulgate rules ~~—~~ not inconsistent with
17 this act or other applicable statutes ~~—~~ prescribing procedures
18 for contested cases.

19 SEC. 34. (1) THE OFFICE OF REGULATORY REFORM IS AN INDEPEN-
20 DENT AND AUTONOMOUS TYPE 1 AGENCY WITHIN THE DEPARTMENT OF MAN-
21 AGEMENT AND BUDGET. THE OFFICE OF REGULATORY REFORM HAS THE
22 POWERS AND DUTIES AS SET FORTH IN EXECUTIVE ORDER NO. 1995-6 AND
23 SHALL EXERCISE THE POWERS AND PERFORM THE DUTIES PRESCRIBED BY
24 SUBSECTION (2) INDEPENDENTLY OF THE PRINCIPAL EXECUTIVE DEPART-
25 MENTS OF THIS STATE, INCLUDING, BUT NOT LIMITED TO, PERSONNEL,
26 BUDGETING, PROCUREMENT, AND MANAGEMENT-RELATED FUNCTIONS.

1 (2) IN ADDITION TO ANY OTHER POWERS AND DUTIES DESCRIBED IN
2 SUBSECTION (1), THE OFFICE OF REGULATORY REFORM SHALL REVIEW
3 PROPOSED RULES, COORDINATE PROCESSING OF RULES BY AGENCIES, WORK
4 WITH THE AGENCIES TO STREAMLINE THE RULE-MAKING PROCESS, AND CON-
5 sider efforts designed to improve public access to the
6 RULE-MAKING PROCESS.

7 Sec. 36. The ~~joint committee on administrative rules~~
8 OFFICE OF REGULATORY REFORM may prescribe procedures and stan-
9 dards not inconsistent with this act or other applicable statutes
10 ~~,~~ for the drafting ~~,~~ processing, OF RULES, publication OF
11 REQUIRED NOTICES, and distribution of rules. THE OFFICE OF REGU-
12 LATORY REFORM MAY PRESCRIBE PROCEDURES AND STANDARDS NOT INCON-
13 SISTENT WITH THIS ACT OR OTHER APPLICABLE STATUTES FOR THE PRO-
14 CESSING OF RULES WITHIN THE EXECUTIVE BRANCH. The procedures and
15 standards shall be included in a manual which the ~~legislative~~
16 ~~service bureau~~ OFFICE OF REGULATORY REFORM shall publish and
17 distribute in reasonable quantities to the state departments AND
18 THE COMMITTEE.

19 SEC. 39. (1) BEFORE INITIATING ANY CHANGES OR ADDITIONS TO
20 RULES, AN AGENCY SHALL FILE WITH THE OFFICE OF REGULATORY REFORM
21 A REQUEST FOR RULE-MAKING ON A FORM PRESCRIBED BY THE OFFICE OF
22 REGULATORY REFORM. THE REQUEST FOR RULE-MAKING SHALL INCLUDE THE
23 FOLLOWING:

24 (A) THE STATE OR FEDERAL STATUTORY OR REGULATORY BASIS FOR
25 THE RULE.

26 (B) THE PROBLEM THE RULE INTENDS TO ADDRESS.

1 (C) AN ASSESSMENT OF THE SIGNIFICANCE OF THE PROBLEM.

2 (2) AN AGENCY SHALL NOT PROCEED WITH THE PROCESSING OF A
3 RULE OUTLINED IN THIS CHAPTER UNLESS THE OFFICE OF REGULATORY
4 REFORM HAS APPROVED THE REQUEST FOR RULE-MAKING.

5 (3) THE OFFICE OF REGULATORY REFORM SHALL RECORD THE RECEIPT
6 OF ALL REQUESTS FOR RULE-MAKING ON THE INTERNET AND SHALL MAKE
7 COPIES OF APPROVED REQUESTS FOR RULE-MAKING AVAILABLE TO MEMBERS
8 OF THE GENERAL PUBLIC UPON REQUEST.

9 (4) THE OFFICE OF REGULATORY REFORM SHALL IMMEDIATELY MAKE
10 AVAILABLE TO THE COMMITTEE COPIES OF THE REQUEST FOR RULE-MAKING
11 APPROVED BY THE OFFICE OF REGULATORY REFORM. THE COMMITTEE SHALL
12 PROVIDE A COPY OF THE APPROVED REQUEST FOR RULE-MAKING TO MEMBERS
13 OF THE COMMITTEE AND TO MEMBERS OF THE STANDING COMMITTEES OF THE
14 SENATE AND HOUSE OF REPRESENTATIVES THAT DEAL WITH THE SUBJECT
15 MATTER OF THE PROPOSED RULE.

16 SEC. 39A. (1) AN AGENCY MAY PUBLISH THE NOTICE OF HEARING
17 UNDER SECTION 42 ONLY IF THE OFFICE OF REGULATORY REFORM HAS
18 RECEIVED DRAFT PROPOSED RULES AND HAS GIVEN THE AGENCY APPROVAL
19 TO PROCEED WITH A PUBLIC HEARING.

20 (2) AFTER A GRANT OF APPROVAL TO HOLD A PUBLIC HEARING BY
21 THE OFFICE OF REGULATORY REFORM UNDER SUBSECTION (1), THE OFFICE
22 OF REGULATORY REFORM SHALL IMMEDIATELY PROVIDE A COPY OF THE PRO-
23 POSED RULES TO THE COMMITTEE. THE COMMITTEE SHALL PROVIDE A COPY
24 OF THE PROPOSED RULES TO MEMBERS OF THE COMMITTEE AND TO MEMBERS
25 OF THE STANDING COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTA-
26 TIVES THAT DEAL WITH THE SUBJECT MATTER OF THE PROPOSED RULE.

1 Sec. 40. (1) When an agency proposes to adopt a rule
2 ~~which~~ THAT will apply to a small business ~~,~~ and ~~the small~~
3 ~~business economic impact statement discloses that~~ the rule will
4 have a disproportionate impact on small businesses because of the
5 size of those businesses, the agency proposing to adopt the rule
6 shall reduce the economic impact of the rule on small businesses
7 by doing 1 or more of the following when it is lawful and feasi-
8 ble in meeting the objectives of the act authorizing the promul-
9 gation of the rule:

10 (a) Establish differing compliance or reporting requirements
11 or timetables for small businesses under the rule.

12 (b) Consolidate or simplify the compliance and reporting
13 requirements for small businesses under the rule.

14 (c) Establish performance rather than design standards, when
15 appropriate.

16 (d) Exempt small businesses from any or all of the require-
17 ments of the rule.

18 (2) If appropriate in reducing the disproportionate economic
19 impact on small business of a rule as provided in subsection (1),
20 an agency may use the following classifications of small
21 business:

22 (a) 0-9 full-time employees.

23 (b) 10-49 full-time employees.

24 (c) 50-249 full-time employees.

25 (3) For purposes of subsection (2), an agency may include a
26 small business with a greater number of full-time employees in a

1 classification that applies to a business with fewer full-time
2 employees.

3 (4) This section and section 45(3) ~~shall~~ DO not apply to a
4 rule which is required by federal law and which an agency promul-
5 gates without imposing standards more stringent than those
6 required by the federal law.

7 Sec. 41a. A member of the legislature may annually submit a
8 written request to the ~~legislative service bureau~~ OFFICE OF
9 REGULATORY REFORM requesting that a copy of all proposed rules or
10 changes in rules, or any designated proposed rules or changes in
11 rules submitted to the ~~legislative service bureau~~ OFFICE OF
12 REGULATORY REFORM for its approval, be transmitted to the
13 requesting member upon receipt of the same by the ~~legislative~~
14 ~~service bureau~~ OFFICE OF REGULATORY REFORM.

15 Sec. 42. (1) Except as provided in section 44, at a mini-
16 mum, an agency shall publish the notice of public hearing as pre-
17 scribed in any applicable statute ~~—~~ or, if none, the agency
18 shall publish the notice not less than 10 days and not more than
19 60 days before the date of the public hearing in at least 3 news-
20 papers of general circulation in different parts of the state, 1
21 of which shall be in the Upper Peninsula.

22 (2) Additional methods that may be employed by the agency,
23 depending upon the circumstances, include publication in trade,
24 industry, governmental, or professional publications.

25 (3) In addition to the requirements of subsection (1), the
26 agency shall submit a copy of the notice OF PUBLIC HEARING to the
27 ~~legislative service bureau~~ OFFICE OF REGULATORY REFORM for

1 publication in the Michigan register. An agency's notice shall
2 be published in the Michigan register ~~not less than 30 days and~~
3 ~~not more than 90 days~~ before the public hearing AND THE AGENCY
4 SHALL FILE A COPY OF THE NOTICE OF PUBLIC HEARING WITH THE OFFICE
5 OF REGULATORY REFORM. WITHIN 7 DAYS AFTER RECEIPT OF THE NOTICE
6 OF PUBLIC HEARING, THE OFFICE OF REGULATORY REFORM SHALL DO ALL
7 OF THE FOLLOWING BEFORE THE PUBLIC HEARING:

8 (A) FORWARD A COPY OF THE NOTICE OF PUBLIC HEARING TO THE
9 COMMITTEE.

10 (B) PROVIDE NOTICE ELECTRONICALLY THROUGH PUBLICLY ACCESSI-
11 BLE INTERNET MEDIA.

12 (4) AFTER THE OFFICE OF REGULATORY REFORM FORWARDS A COPY OF
13 THE NOTICE OF PUBLIC HEARING TO THE COMMITTEE, THE COMMITTEE
14 SHALL SEND COPIES OF THE NOTICE OF PUBLIC HEARING TO EACH MEMBER
15 OF THE COMMITTEE AND TO THE MEMBERS OF THE STANDING COMMITTEES OF
16 THE SENATE AND HOUSE OF REPRESENTATIVES THAT DEAL WITH THE
17 SUBJECT MATTER OF THE PROPOSED RULE.

18 (5) AFTER RECEIPT OF THE NOTICE OF PUBLIC HEARING FILED
19 UNDER SUBSECTION (3), THE COMMITTEE MAY MEET TO CONSIDER THE PRO-
20 POSED RULE, TAKE TESTIMONY, AND PROVIDE THE AGENCY WITH THE
21 COMMITTEE'S INFORMAL RESPONSE TO THE RULE.

22 Sec. 44. (1) Sections 41 and 42 do not apply to an amend-
23 ment or rescission of a rule that is obsolete or superseded, or
24 that is required to make obviously needed corrections to make the
25 rule conform to an amended or new statute or to accomplish any
26 other solely formal purpose, if a statement to that effect is

1 included in the legislative service bureau certificate of
2 approval of the rule.

3 (2) Sections 41 and 42 do not apply to a rule that is
4 promulgated under the Michigan occupational safety and health
5 act, ~~Act No. 154 of the Public Acts of 1974, being sections~~
6 ~~408.1001 to 408.1094 of the Michigan Compiled Laws~~ 1974 PA 154,
7 MCL 408.1001 TO 408.1094, that is substantially similar to an
8 existing federal standard that has been adopted or promulgated
9 under the occupational safety and health act of 1970, Public Law
10 91-596, 84 Stat. 1590. However, notice of the proposed rule
11 shall be published in the Michigan register at least ~~60~~ 35 days
12 before the submission of the rule to the secretary of state pur-
13 suant to section 46(4). A reasonable period, not to exceed ~~30~~
14 21 days, shall be provided for the submission of written comments
15 and views following publication in the Michigan register.

16 (3) For purposes of subsection (2), "substantially similar"
17 means identical, with the exception of style or format differ-
18 ences needed to conform to this or other state laws, as deter-
19 mined by the ~~department of attorney general~~ OFFICE OF REGULA-
20 TORY REFORM pursuant to section 45(1).

21 Sec. 45. (1) IF APPROVED BY THE OFFICE OF REGULATORY
22 REFORM, THE AGENCY MAY SUBMIT THE PROPOSED RULE TO THE LEGISLA-
23 TIVE SERVICE BUREAU FOR ITS FORMAL CERTIFICATION. The legislative
24 service bureau promptly shall approve a proposed rule if ~~the~~
25 ~~legislative service bureau~~ IT considers the proposed rule to be
26 proper as to all matters of form, classification, AND
27 arrangement. ~~and numbering.~~ The ~~department of attorney general~~

1 ~~promptly shall~~ OFFICE OF REGULATORY REFORM MAY approve a
 2 proposed rule if ~~the department~~ IT considers the proposed rule
 3 to be legal.

4 (2) Except as provided in subsection ~~(13)~~ (6), after
 5 ~~publication of the proposed rule in the Michigan register and~~
 6 ~~after~~ notice is given as provided in this act and before the
 7 agency proposing the rule has formally adopted the rule, the
 8 agency SHALL PREPARE AN AGENCY REPORT CONTAINING A SYNOPSIS OF
 9 THE COMMENTS CONTAINED IN THE PUBLIC HEARING RECORD AND SHALL
 10 DESCRIBE ANY CHANGES IN THE PROPOSED RULES THAT WERE MADE BY THE
 11 AGENCY AFTER THE PUBLIC HEARING. THE OFFICE OF REGULATORY REFORM
 12 shall transmit by letter to the committee copies of the rule,
 13 ~~bearing~~ THE AGENCY REPORTS, AND certificates of approval from
 14 the legislative service bureau and the ~~department of attorney~~
 15 ~~general and copies of the rule without certificates~~ OFFICE OF
 16 REGULATORY REFORM. THE NUMBER OF COPIES TRANSMITTED SHALL BE THE
 17 NUMBER REQUIRED IN THE COMMITTEE PROCEDURES AND STANDARDS BUT NOT
 18 TO EXCEED 12 COPIES. The agency ~~transmittal~~ shall ~~be received~~
 19 ~~by~~ TRANSMIT TO the committee THE DOCUMENTS DESCRIBED IN THIS
 20 SUBSECTION within ~~2 years~~ 1 YEAR after the date of the last
 21 public hearing on the proposed rule unless the proposed rule is a
 22 resubmission under ~~subsection (11)~~ SECTION 45A(7). ~~The~~

23 (3) EXCEPT FOR A RULE PROMULGATED UNDER SECTIONS 33, 44, AND
 24 48, THE agency shall PREPARE AND include with the letter of
 25 transmittal a regulatory impact statement ~~on a 1-page form pro-~~
 26 ~~vided by the committee. The statement shall provide estimates of~~

1 ~~the impact of the proposed rules upon~~ CONTAINING all of the
2 following INFORMATION:

3 ~~(a) The revenues, expenditures, and paper work requirements~~
4 ~~of the agency proposing the rule.~~

5 ~~(b) The revenues and expenditures of any other state or~~
6 ~~local government agency affected by the proposed rule.~~

7 ~~(c) The taxpayers, consumers, industry or trade groups,~~
8 ~~small business, or other applicable groups affected by the pro-~~
9 ~~posed rule.~~

10 ~~(3) Except as provided in subsection (13) and section 40(4),~~
11 ~~if the regulatory impact statement discloses an impact on small~~
12 ~~businesses, the agency shall include with the letter of transmit-~~
13 ~~tal a small business economic impact statement in a form pre-~~
14 ~~scribed by the committee. A small business economic impact~~
15 ~~statement shall contain all of the following with respect to the~~
16 ~~proposed rules:~~

17 ~~(a) The nature of any reports and the estimated cost of~~
18 ~~their preparation by small businesses that would be required to~~
19 ~~comply with the proposed rules.~~

20 ~~(b) An analysis of the costs of compliance for all small~~
21 ~~businesses affected by the proposed rules, including costs of~~
22 ~~equipment, supplies, labor, and increased administrative costs.~~

23 ~~(c) The nature and estimated cost of any legal, consulting,~~
24 ~~and accounting services that small businesses would incur in com-~~
25 ~~plying with the proposed rules.~~

1 ~~(d) A statement regarding whether the proposed rules will~~
2 ~~have a disproportionate impact on small businesses because of the~~
3 ~~size of those businesses.~~

4 ~~(e) The ability of small businesses to absorb the costs~~
5 ~~estimated under subdivisions (a) to (c) without suffering eco-~~
6 ~~nomic harm and without adversely affecting competition in the~~
7 ~~marketplace.~~

8 ~~(f) The cost, if any, to the agency of administering or~~
9 ~~enforcing a rule that exempts or sets lesser standards for com-~~
10 ~~pliance by small businesses.~~

11 ~~(g) The impact on the public interest of exempting or set-~~
12 ~~ting lesser standards of compliance for small businesses.~~

13 ~~(h) A statement regarding the manner in which the agency~~
14 ~~reduced the economic impact of the rule on small businesses as~~
15 ~~required under section 40, or a statement regarding the reasons~~
16 ~~such a reduction was not feasible.~~

17 ~~(i) A statement regarding whether and how the agency has~~
18 ~~involved small businesses in the development of the rule.~~

19 ~~(4) In order to obtain cost information for purposes of sub-~~
20 ~~section (3), an agency may survey a representative sample of~~
21 ~~affected small businesses or trade associations or may adopt any~~
22 ~~other means considered appropriate by the agency.~~

23 ~~(5) The agency shall transmit a copy of the small business~~
24 ~~economic impact statement to the director of commerce at the same~~
25 ~~time as required in subsection (3) for transmittal to the~~
26 ~~committee. The director of commerce shall review the statement~~

~~1 and within 30 days after receipt shall notify the committee of
2 any additional information pertinent to the committee's review.~~

~~3 (6) After receipt by the committee of the agency's letter of
4 transmittal, the committee has 2 months in which to consider the
5 rule. If the committee by a majority vote determines that added
6 time is needed to consider proposed rules, the committee may
7 extend the time it has to consider a particular proposed rule by
8 1 month to a total of not longer than 3 months. This subsection,
9 subsections (2) to (5), and subsections (7) to (12) do not apply
10 to an emergency rule.~~

11 (A) A COMPARISON OF THE PROPOSED RULE TO PARALLEL FEDERAL
12 RULES OR STANDARDS SET BY A STATE OR NATIONAL LICENSING AGENCY OR
13 ACCREDITATION ASSOCIATION, IF ANY EXIST.

14 (B) AN IDENTIFICATION OF THE BEHAVIOR AND FREQUENCY OF
15 BEHAVIOR THAT THE RULE IS DESIGNED TO ALTER.

16 (C) AN IDENTIFICATION OF THE HARM RESULTING FROM THE BEHAV-
17 IOR THAT THE RULE IS DESIGNED TO ALTER AND THE LIKELIHOOD THAT
18 THE HARM WILL OCCUR IN THE ABSENCE OF THE RULE.

19 (D) AN ESTIMATE OF THE CHANGE IN THE FREQUENCY OF THE TAR-
20 GETED BEHAVIOR EXPECTED FROM THE RULE.

21 (E) AN IDENTIFICATION OF THE BUSINESSES, GROUPS, OR INDIVID-
22 UALS WHO WILL BE DIRECTLY AFFECTED BY, BEAR THE COST OF, OR
23 DIRECTLY BENEFIT FROM THE RULE.

24 (F) AN IDENTIFICATION OF ANY REASONABLE ALTERNATIVES TO REG-
25 ULATION PURSUANT TO THE PROPOSED RULE THAT WOULD ACHIEVE THE SAME
26 OR SIMILAR GOALS.

1 (G) A DISCUSSION OF THE FEASIBILITY OF ESTABLISHING A
2 REGULATORY PROGRAM SIMILAR TO THAT PROPOSED IN THE RULE THAT
3 WOULD OPERATE THROUGH MARKET-BASED MECHANISMS.

4 (H) AN ESTIMATE OF THE COST OF RULE IMPOSITION ON THE AGENCY
5 PROMULGATING THE RULE.

6 (I) AN ESTIMATE OF THE ACTUAL STATEWIDE COMPLIANCE COSTS OF
7 THE PROPOSED RULE ON INDIVIDUALS.

8 (J) AN ESTIMATE OF THE ACTUAL STATEWIDE COMPLIANCE COSTS OF
9 THE PROPOSED RULE ON BUSINESSES AND OTHER GROUPS.

10 (K) AN IDENTIFICATION OF ANY DISPROPORTIONATE IMPACT THE
11 PROPOSED RULE MAY HAVE ON SMALL BUSINESSES BECAUSE OF THEIR
12 SIZE.

13 (L) AN IDENTIFICATION OF THE NATURE OF ANY REPORT AND THE
14 ESTIMATED COST OF ITS PREPARATION BY SMALL BUSINESS REQUIRED TO
15 COMPLY WITH THE PROPOSED RULE.

16 (M) AN ANALYSIS OF THE COSTS OF COMPLIANCE FOR ALL SMALL
17 BUSINESSES AFFECTED BY THE PROPOSED RULE, INCLUDING COSTS OF
18 EQUIPMENT, SUPPLIES, LABOR, AND INCREASED ADMINISTRATIVE COSTS.

19 (N) AN IDENTIFICATION OF THE NATURE AND ESTIMATED COST OF
20 ANY LEGAL CONSULTING AND ACCOUNTING SERVICES THAT SMALL BUSI-
21 NESSES WOULD INCUR IN COMPLYING WITH THE PROPOSED RULE.

22 (O) AN ESTIMATE OF THE ABILITY OF SMALL BUSINESSES TO ABSORB
23 THE COSTS ESTIMATED UNDER SUBDIVISIONS (L) THROUGH (N) WITHOUT
24 SUFFERING ECONOMIC HARM AND WITHOUT ADVERSELY AFFECTING COMPETI-
25 TION IN THE MARKETPLACE.

1 (P) AN ESTIMATE OF THE COST, IF ANY, TO THE AGENCY OF
2 ADMINISTERING OR ENFORCING A RULE THAT EXEMPTS OR SETS LESSER
3 STANDARDS FOR COMPLIANCE BY SMALL BUSINESSES.

4 (Q) AN IDENTIFICATION OF THE IMPACT ON THE PUBLIC INTEREST
5 OF EXEMPTING OR SETTING LESSER STANDARDS OF COMPLIANCE FOR SMALL
6 BUSINESSES.

7 (R) A STATEMENT DESCRIBING THE MANNER IN WHICH THE AGENCY
8 REDUCED THE ECONOMIC IMPACT OF THE RULE ON SMALL BUSINESSES OR A
9 STATEMENT DESCRIBING THE REASONS SUCH A REDUCTION WAS NOT
10 FEASIBLE.

11 (S) A STATEMENT DESCRIBING WHETHER AND HOW THE AGENCY HAS
12 INVOLVED SMALL BUSINESSES IN THE DEVELOPMENT OF THE RULE.

13 (T) AN ESTIMATE OF THE PRIMARY AND DIRECT BENEFITS OF THE
14 RULE.

15 (U) AN ESTIMATE OF ANY COST REDUCTIONS TO BUSINESSES, INDI-
16 VIDUALS, GROUPS OF INDIVIDUALS, OR GOVERNMENTAL UNITS AS A RESULT
17 OF THE RULE.

18 (V) AN ESTIMATE OF ANY INCREASE IN REVENUES TO STATE OR
19 LOCAL GOVERNMENTAL UNITS AS A RESULT OF THE RULE.

20 (W) AN ESTIMATE OF ANY SECONDARY OR INDIRECT BENEFITS OF THE
21 RULE.

22 (X) AN IDENTIFICATION OF THE SOURCES THE AGENCY RELIED UPON
23 IN COMPILING THE REGULATORY IMPACT STATEMENT.

24 (Y) ANY OTHER INFORMATION REQUIRED BY THE OFFICE OF REGULA-
25 TORY REFORM.

26 (4) THE AGENCY SHALL TRANSMIT THE REGULATORY IMPACT
27 STATEMENT REQUIRED UNDER SUBSECTION (3) TO THE OFFICE OF

1 REGULATORY REFORM AT LEAST 28 DAYS BEFORE THE PUBLIC HEARING
2 REQUIRED PURSUANT TO SECTION 42. BEFORE THE PUBLIC HEARING CAN
3 BE HELD, THE REGULATORY IMPACT STATEMENT MUST BE APPROVED BY THE
4 OFFICE OF REGULATORY REFORM. THE AGENCY SHALL ALSO TRANSMIT A
5 COPY OF THE REGULATORY IMPACT STATEMENT TO THE COMMITTEE BEFORE
6 THE PUBLIC HEARING AND THE AGENCY SHALL MAKE COPIES AVAILABLE TO
7 THE PUBLIC AT THE PUBLIC HEARING.

8 (5) ~~(7)~~ The committee shall furnish the senate fiscal
9 agency and the house fiscal agency with a copy of each rule and
10 regulatory impact statement filed with the committee, as well as
11 a copy of the agenda identifying the proposed rules to be consid-
12 ered by the committee. The senate fiscal agency and the house
13 fiscal agency shall analyze each proposed rule for possible
14 fiscal implications which, if adopted, would result in additional
15 appropriations in the current fiscal year or commit the legisla-
16 ture to an appropriation in a future fiscal year. The senate
17 fiscal agency and the house fiscal agency shall report their
18 findings in writing to the senate and house appropriations com-
19 mittees and to the committee before the date of consideration of
20 the proposed rule by the committee.

21 ~~(8) If the committee approves the proposed rule within the~~
22 ~~time period provided by subsection (6), the committee shall~~
23 ~~attach a certificate of its approval to all copies of the rule~~
24 ~~bearing certificates except 1 and transmit those copies to the~~
25 ~~agency.~~

26 ~~(9) If, within the time period provided by subsection (6),~~
27 ~~the committee disapproves the proposed rule or the committee~~

~~1 chairperson certifies an impasse after votes for approval and
2 disapproval have failed to receive concurrent majorities, the
3 committee shall immediately report that fact to the legislature
4 and return the rule to the agency. The agency shall not adopt or
5 promulgate the rule unless 1 of the following occurs:~~

~~6 (a) The legislature adopts a concurrent resolution approving
7 the rule within 60 days after the committee report has been
8 received by, and read into the respective journal of, each
9 house.~~

~~10 (b) The committee subsequently approves the rule.~~

~~11 (10) If the time permitted by this section expires and the
12 committee has not taken action under either subsection (8) or
13 (9), then the committee shall return the proposed rules to the
14 agency. The chairperson and alternate chairperson shall cause
15 concurrent resolutions approving the rule to be introduced in
16 both houses of the legislature simultaneously. Each house of the
17 legislature shall place the concurrent resolution directly on its
18 calendar. The agency shall not adopt or promulgate the rule
19 unless 1 of the following occurs:~~

~~20 (a) The legislature adopts a concurrent resolution approving
21 the rule within 60 days after introduction by record roll call
22 vote. The adoption of the concurrent resolution requires a
23 majority of the members elected to and serving in each house of
24 the legislature.~~

~~25 (b) The agency resubmits the proposed rule to the committee
26 and the committee approves the rule within the time permitted by
27 this section.~~

1 ~~(11) An agency may withdraw a proposed rule by leave of the~~
2 ~~committee. An agency may resubmit a rule so withdrawn or~~
3 ~~returned under subsection (9) with changes following a committee~~
4 ~~meeting on the proposed rule or with minor modifications. A~~
5 ~~resubmitted rule is a new filing and subject to this section, but~~
6 ~~is not subject to further notice and hearing as provided in sec-~~
7 ~~tions 41 and 42.~~

8 ~~(12) If the committee approves the proposed rule within the~~
9 ~~time period provided by subsection (6), or the legislature adopts~~
10 ~~a concurrent resolution approving the rule, the agency, if it~~
11 ~~wishes to proceed, shall formally adopt the rule pursuant to any~~
12 ~~applicable statute and make a written record of the adoption.~~
13 ~~Certificates of approval and adoption shall be attached to at~~
14 ~~least 6 copies of the rule.~~

15 (6) ~~(13) Subsections (2), through (12) (3), AND (4) do~~
16 ~~not apply to a rule that is promulgated under the Michigan occu-~~
17 ~~pational safety and health act, Act No. 154 of the Public Acts of~~
18 ~~1974, being sections 408.1001 to 408.1094 of the Michigan~~
19 ~~Compiled Laws, that is substantially similar to an existing fed-~~
20 ~~eral standard that has been adopted or promulgated under the~~
21 ~~occupational safety and health act of 1970, Public Law 91-596, 84~~
22 ~~Stat. 1590 SECTIONS 33, 44, AND 48.~~

23 SEC. 45A. (1) EXCEPT AS OTHERWISE PROVIDED FOR IN SUBSEC-
24 TIONS (7) AND (8), AFTER RECEIPT BY THE COMMITTEE OF THE LETTER
25 OF TRANSMITTAL SPECIFIED IN SECTION 45(2), THE COMMITTEE HAS 21
26 CALENDAR DAYS IN WHICH TO CONSIDER THE RULE AND TO OBJECT TO THE
27 RULE BY FILING A NOTICE OF OBJECTION APPROVED BY A CONCURRENT

1 MAJORITY OF THE COMMITTEE MEMBERS. A NOTICE OF OBJECTION MAY
2 ONLY BE APPROVED BY THE COMMITTEE IF THE COMMITTEE AFFIRMATIVELY
3 DETERMINES BY A CONCURRENT MAJORITY THAT 1 OR MORE OF THE FOLLOW-
4 ING CONDITIONS EXIST:

5 (A) THE AGENCY LACKS STATUTORY AUTHORITY FOR THE RULE.

6 (B) THE AGENCY IS EXCEEDING THE STATUTORY SCOPE OF ITS
7 RULE-MAKING AUTHORITY.

8 (C) THERE EXISTS AN EMERGENCY RELATING TO THE PUBLIC HEALTH,
9 SAFETY, AND WELFARE THAT WOULD WARRANT DISAPPROVAL OF THE RULE.

10 (D) THE RULE IS IN CONFLICT WITH STATE LAW.

11 (E) A SUBSTANTIAL CHANGE IN CIRCUMSTANCES HAS OCCURRED SINCE
12 ENACTMENT OF THE LAW UPON WHICH THE PROPOSED RULE IS BASED.

13 (F) THE RULE IS ARBITRARY OR CAPRICIOUS.

14 (G) THE RULE IS UNDULY BURDENSOME TO THE PUBLIC OR TO A
15 LICENSEE LICENSED BY THE RULE.

16 (2) IF THE COMMITTEE DOES NOT FILE A NOTICE OF OBJECTION
17 WITHIN THE TIME PERIOD PRESCRIBED IN SUBSECTION (1), THE OFFICE
18 OF REGULATORY REFORM MAY IMMEDIATELY FILE THE RULE WITH THE SEC-
19 RETARY OF STATE. THE RULE SHALL TAKE EFFECT 7 DAYS AFTER THE
20 DATE OF ITS FILING UNLESS A LATER DATE IS INDICATED WITHIN THE
21 RULE.

22 (3) IF THE COMMITTEE FILES A NOTICE OF OBJECTION WITHIN THE
23 TIME PERIOD PRESCRIBED IN SUBSECTION (1), THE COMMITTEE CHAIR AND
24 ALTERNATE CHAIR SHALL CAUSE BILLS TO BE INTRODUCED IN BOTH HOUSES
25 OF THE LEGISLATURE SIMULTANEOUSLY. EACH HOUSE SHALL PLACE THE
26 BILLS DIRECTLY ON ITS CALENDAR. THE BILLS SHALL CONTAIN 1 OR
27 MORE OF THE FOLLOWING:

1 (A) A RESCISSION OF A RULE UPON ITS EFFECTIVE DATE.

2 (B) A REPEAL OF THE STATUTORY PROVISION UNDER WHICH THE RULE
3 WAS AUTHORIZED.

4 (C) A BILL STAYING THE EFFECTIVE DATE OF THE PROPOSED RULE
5 FOR UP TO 1 YEAR.

6 (4) THE NOTICE OF OBJECTION FILED UNDER SUBSECTION (3) STAYS
7 THE ABILITY OF THE OFFICE OF REGULATORY REFORM TO FILE THE RULE
8 WITH THE SECRETARY OF STATE FOR THE FOLLOWING TIME PERIODS:

9 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B) OR (C), 21 CONSEC-
10 UTIVE CALENDAR DAYS.

11 (B) IF BOTH HOUSES OF THE LEGISLATURE ARE NOT IN SESSION FOR
12 MORE THAN 14 CONSECUTIVE CALENDAR DAYS BUT 21 OR LESS CONSECUTIVE
13 CALENDAR DAYS FOLLOWING THE FILING OF A NOTICE OF OBJECTION, THE
14 21-DAY TIME PERIOD DESCRIBED IN SUBDIVISION (A) SHALL TOLL, WITH
15 THE REMAINDER OF THE 21-DAY TIME PERIOD AVAILABLE FOR CONSIDERA-
16 TION UPON THE RETURN OF EITHER HOUSE. IN NO CASE UNDER THIS SUB-
17 DIVISION SHALL THE COMBINED TIME PERIOD FOR CONSIDERATION BY THE
18 COMMITTEE AND FULL LEGISLATURE EXCEED 63 CONSECUTIVE CALENDAR
19 DAYS.

20 (C) IF BOTH HOUSES OF THE LEGISLATURE ARE NOT IN SESSION
21 MORE THAN 21 CONSECUTIVE CALENDAR DAYS FOLLOWING THE FILING OF A
22 TIMELY NOTICE OF OBJECTION, THE 21-DAY TIME PERIOD DESCRIBED IN
23 SUBDIVISION (A) SHALL TOLL, WITH THE REMAINDER OF THE 21-DAY TIME
24 PERIOD AVAILABLE FOR CONSIDERATION UPON THE RETURN OF EITHER
25 HOUSE.

26 (5) IF THE LEGISLATION INTRODUCED PURSUANT TO SUBSECTION (3)
27 IS DEFEATED IN EITHER HOUSE AND IF THE VOTE BY WHICH THE

1 LEGISLATION FAILED TO PASS IS NOT RECONSIDERED IN COMPLIANCE WITH
2 THE RULES OF THAT HOUSE, OR IF LEGISLATION INTRODUCED PURSUANT TO
3 SUBSECTION (3) IS NOT ADOPTED BY BOTH HOUSES WITHIN THE TIME
4 PERIOD SPECIFIED IN SUBSECTION (4), THE OFFICE OF REGULATORY
5 REFORM MAY FILE THE RULE WITH THE SECRETARY OF STATE. UPON
6 FILING WITH THE SECRETARY OF STATE, THE RULE SHALL TAKE EFFECT 7
7 DAYS AFTER THE FILING DATE UNLESS A LATER DATE IS SPECIFIED
8 WITHIN THE RULE.

9 (6) IF THE LEGISLATION INTRODUCED PURSUANT TO SUBSECTION (3)
10 IS ENACTED BY THE LEGISLATURE AND PRESENTED TO THE GOVERNOR
11 WITHIN THE 21-DAY PERIOD, THE RULES DO NOT BECOME EFFECTIVE
12 UNLESS THE LEGISLATION IS VETOED BY THE GOVERNOR AS PROVIDED BY
13 LAW. IF THE GOVERNOR VETOES THE LEGISLATION, THE OFFICE OF REGU-
14 LATORY REFORM MAY FILE THE RULES IMMEDIATELY. THE RULE SHALL
15 TAKE EFFECT 7 DAYS AFTER THE DATE OF ITS FILING UNLESS A LATER
16 EFFECTIVE DATE IS INDICATED WITHIN THE RULE.

17 (7) AN AGENCY MAY WITHDRAW A PROPOSED RULE UNDER THE FOLLOW-
18 ING CONDITIONS:

19 (A) WITH PERMISSION OF THE CHAIR AND ALTERNATE CHAIR, THE
20 AGENCY MAY WITHDRAW THE RULE AND RESUBMIT IT. IF PERMISSION TO
21 WITHDRAW IS GRANTED, THE 21-DAY TIME PERIOD DESCRIBED IN SUBSEC-
22 TION (1) IS TOLLED UNTIL THE RULE IS RESUBMITTED, EXCEPT THAT THE
23 COMMITTEE SHALL HAVE AT LEAST 7 CALENDAR DAYS AFTER RESUBMISSION
24 TO CONSIDER THE RESUBMITTED RULE. THE PERIOD OF TIME BETWEEN
25 WITHDRAWAL AND RESUBMISSION OF THE RULE IS NOT COUNTED TOWARD THE
26 63-DAY LIMIT FOR RULE CONSIDERATION DESCRIBED IN SUBSECTION
27 (4)(B).

1 (B) WITHOUT PERMISSION OF THE CHAIR AND ALTERNATE CHAIR, THE
2 AGENCY MAY WITHDRAW THE RULE AND RESUBMIT IT. IF PERMISSION TO
3 WITHDRAW IS NOT GRANTED, A NEW AND UNTOLLED 21-DAY TIME PERIOD
4 DESCRIBED IN SUBSECTION (1) SHALL BEGIN UPON RESUBMISSION OF THE
5 RULE TO THE COMMITTEE FOR CONSIDERATION.

6 (8) SUBSECTIONS (1) THROUGH (5) DO NOT APPLY TO RULES
7 ADOPTED UNDER SECTIONS 33, 44, AND 48.

8 Sec. 46. (1) ~~Except for a rule processed pursuant to~~
9 ~~section 44(2), to~~ TO promulgate a rule ~~an agency~~ THE OFFICE OF
10 REGULATORY REFORM shall file in the office of the secretary of
11 state 3 copies of the rule bearing the required certificates of
12 approval and adoption and true copies of the rule without the
13 certificates. ~~An agency~~ THE OFFICE OF REGULATORY REFORM shall
14 not file a rule, except an emergency rule under section 48 AND
15 RULES PROCESSED UNDER SECTIONS 33 AND 44, until ~~at least 10 days~~
16 ~~after the date of the certificate of approval by the committee or~~
17 ~~after the legislature adopts a concurrent resolution approving~~
18 ~~the rule. An agency shall transmit a copy of the rule bearing~~
19 ~~the required certificates of approval and adoption to the office~~
20 ~~of the governor at least 10 days before it files the rule~~ THE
21 TIME PERIODS FOR COMMITTEE AND LEGISLATIVE CONSIDERATION
22 DESCRIBED IN SECTION 45A HAVE ELAPSED.

23 (2) The secretary of state shall endorse the date and hour
24 of filing of rules on the 3 copies of the filing bearing the cer-
25 tificates and shall maintain a file containing 1 copy for public
26 inspection.

1 (3) The secretary of state, as often as he or she considers
 2 it advisable, shall cause to be arranged and bound in a
 3 substantial manner the rules hereafter filed in his or her office
 4 with their attached certificates and published in a supplement to
 5 the Michigan administrative code. The secretary of state shall
 6 certify under his or her hand and seal of the state on the fron-
 7 tispiece of each volume that it contains all of the rules filed
 8 and published for a specified period. The rules, when so bound
 9 and certified, shall be kept in the office of the secretary of
 10 state and no further record of the rules is required to be kept.
 11 The bound rules are subject to public inspection.

12 ~~(4) To promulgate a rule processed pursuant to~~
 13 ~~section 44(2), an agency, after the period provided for written~~
 14 ~~comments, shall file in the office of the secretary of state 3~~
 15 ~~copies of the rule along with the approval of the legislative~~
 16 ~~service bureau and the department of attorney general.~~

17 Sec. 47. (1) Except in case of a rule processed under sec-
 18 tion 48, a rule becomes effective on the date fixed in the rule,
 19 which shall not be earlier than ~~15~~ 7 days after the date of its
 20 promulgation, or if a date is not so fixed then ~~on the date of~~
 21 ~~its publication in the Michigan administrative code or a supple-~~
 22 ~~ment thereto~~ 7 DAYS AFTER THE DATE OF PROMULGATION.

23 (2) Except in case of a rule processed under section 48, an
 24 agency may withdraw a promulgated rule which has not become
 25 effective by FILING a written request stating reasons ~~—(a)—~~ FOR
 26 WITHDRAWAL to the secretary of state on or before the last day
 27 for filing rules for the interim period in which the rules were

1 first filed, or ~~(b)~~ BY FILING A WRITTEN REQUEST FOR WITHDRAWAL
2 to the secretary of state and the ~~legislative service bureau~~
3 OFFICE OF REGULATORY REFORM, within a reasonable time as deter-
4 mined by the ~~bureau~~ OFFICE OF REGULATORY REFORM, after the last
5 day for filing and before publication of the rule in the next
6 supplement to the code. In any other case an agency may abrogate
7 its rule only by rescission. When an agency has withdrawn a
8 promulgated rule, it shall give notice, stating reasons, to the
9 ~~joint~~ committee ~~on administrative rules~~ that the rule has
10 been withdrawn.

11 (3) SECTIONS 45 AND 45A APPLY TO RULES FOR WHICH A PUBLIC
12 HEARING HAS NOT BEEN HELD BY JANUARY 1, 2000.

13 Sec. 48. (1) If an agency finds that preservation of the
14 public health, safety, or welfare requires promulgation of an
15 emergency rule without following the notice and participation
16 procedures required by sections 41 and 42 and states in the rule
17 the agency's reasons for that finding, and the governor concurs
18 in the finding of emergency, the agency may dispense with all or
19 part of the procedures and file in the office of the secretary of
20 state the copies prescribed by section 46 indorsed as an emer-
21 gency rule, to 3 of which copies shall be attached the certifi-
22 cates prescribed by section 45 and the governor's certificate
23 concurring in the finding of emergency. The emergency rule is
24 effective on filing and remains in effect until a date fixed in
25 the rule or 6 months after the date of its filing, whichever is
26 earlier. The rule may be extended once for not more than 6
27 months by the filing of a governor's certificate of the need for

1 the extension with the office of the secretary of state before
2 expiration of the emergency rule. An emergency rule shall not be
3 numbered and shall not be compiled in the Michigan administrative
4 code, but shall be noted in the annual supplement to the code.
5 The emergency rule shall be published in the Michigan register
6 pursuant to section 8.

7 (2) If the agency desires to promulgate an identical or sim-
8 ilar rule with an effectiveness beyond the final effective date
9 of an emergency rule, the agency shall comply with the procedures
10 prescribed by this act for the processing of a rule which is not
11 an emergency rule. The rule shall be published in the Michigan
12 register and in the code.

13 ~~(3) The legislature by a concurrent resolution may rescind~~
14 ~~an emergency rule promulgated pursuant to this section.~~

15 Sec. 52. If authorized by concurrent resolution of the leg-
16 islature, the ~~joint~~ committee, ~~on administrative rules,~~
17 acting between regular sessions, may suspend a rule or a part of
18 a rule promulgated during the interim between regular sessions.
19 The committee shall notify the agency promulgating the rule, the
20 secretary of state, the department of management and budget, and
21 the legislative service bureau AND OFFICE OF REGULATORY REFORM of
22 any rule or part of a rule the ~~joint~~ committee suspends, and
23 the rule or part of a rule shall not be published in the Michigan
24 register or in the Michigan administrative code while suspended.
25 A rule suspended by the committee continues to be suspended
26 ~~until~~ NO LONGER THAN the end of the next regular LEGISLATIVE
27 session.

1 Sec. 53. (1) Each agency shall prepare ~~a~~ AN ANNUAL
2 REGULATORY plan ~~for the review of~~ THAT REVIEWS the agency's
3 rules. ~~that are brought to the attention of the Michigan busi-~~
4 ~~ness ombudsman.~~ The ANNUAL REGULATORY plan shall be transmitted
5 to the ~~committee and to the director of the department of~~
6 ~~commerce~~ OFFICE OF REGULATORY REFORM. ~~The agency shall conduct~~
7 ~~a review pursuant to the plan.~~

8 (2) In ~~conducting the review~~ COMPLETING THE ANNUAL REGULA-
9 TORY PLAN required by this section, the agency shall ~~prepare a~~
10 ~~small business economic impact statement if the review discloses~~
11 ~~an impact on small businesses.~~ The agency shall prepare a recom-
12 mendation based on the review as to whether the rules should be
13 continued without change or should be amended or rescinded. If
14 the small business economic impact statement discloses that an
15 existing rule has a disproportionate impact on small businesses
16 because of the size of those businesses, the agency reviewing the
17 rule shall, if it is lawful and feasible in meeting the objec-
18 tives of the act authorizing the promulgation of the rule, amend
19 or rescind the rule pursuant to this act to reduce or eliminate
20 the disproportionate impact of the rule on small businesses.
21 IDENTIFY THE RULES IT REASONABLY EXPECTS TO PROCESS IN THE NEXT
22 YEAR, THE MANDATORY STATUTORY RULE AUTHORITY IT HAS NOT EXER-
23 CISED, AND THE RULES IT EXPECTS TO RESCIND IN THE NEXT YEAR.

24 (3) ~~The small business economic impact statement and recom-~~
25 ~~mendation shall be transmitted to the committee and the director~~
26 ~~of the department of commerce.~~ The director shall review the
27 statement and shall notify the committee of any additional

1 ~~information pertinent to the committee's review.~~ THE ANNUAL
2 REGULATORY PLANS COMPLETED PURSUANT TO THIS SECTION ARE ADVISORY
3 ONLY AND DO NOT OTHERWISE BIND THE AGENCY OR IN ANY WAY PREVENT
4 ADDITIONAL ACTION.

5 (4) ~~Four years after its effective date, this section shall~~
6 ~~not apply.~~ ANNUAL REGULATORY PLANS COMPLETED UNDER SUBSECTION
7 (1) SHALL BE FILED WITH THE OFFICE OF REGULATORY REFORM BY JULY 1
8 OF EACH YEAR. AFTER THE OFFICE OF REGULATORY REFORM APPROVES THE
9 PLAN FOR REVIEW, THE OFFICE OF REGULATORY REFORM SHALL PROVIDE A
10 COPY OF THE PLAN OF REVIEW TO THE COMMITTEE. THE COMMITTEE SHALL
11 PROVIDE A COPY OF EACH AGENCY PLAN OF REVIEW TO MEMBERS OF THE
12 COMMITTEE AND TO MEMBERS OF THE STANDING COMMITTEES OF THE SENATE
13 AND HOUSE OF REPRESENTATIVES THAT DEAL WITH THE SUBJECT MATTER OF
14 RULES THE AGENCY MAY PROPOSE.

15 SEC. 54. FAILURE OF THE COMMITTEE TO PROVIDE ANY NOTICES
16 REQUIRED UNDER SECTION 24, 28, 39, 39A, OR 42 DOES NOT AFFECT THE
17 VALIDITY OF THE PROCESSING OR ADOPTION OF A RULE.

18 Sec. 55. (1) The ~~legislative service bureau~~ OFFICE OF
19 REGULATORY REFORM annually shall publish a supplement to the
20 Michigan administrative code. The annual supplement shall con-
21 tain all promulgated rules published in the Michigan register
22 during the current year, except emergency rules, a cumulative
23 numerical listing of amendments and additions to, and rescissions
24 of rules since the last compilation of the MICHIGAN
25 ADMINISTRATIVE code, and a cumulative alphabetical index.

26 (2) The Michigan administrative code and, IF APPLICABLE, the
27 annual supplements shall be made available BY THE OFFICE OF

1 REGULATORY REFORM FREE OF CHARGE ON THE INTERNET AND IN PRINTED
2 OR OTHER ELECTRONIC FORMAT for public subscription at a fee rea-
3 sonably calculated to cover publication and distribution costs.

4 Sec. 56. (1) The ~~legislative service bureau~~ OFFICE OF
5 REGULATORY REFORM shall perform the editorial work for the
6 Michigan register and the Michigan administrative code and its
7 annual supplement. The classification, arrangement, numbering,
8 and indexing of rules shall be UNDER THE OWNERSHIP AND CONTROL OF
9 THE OFFICE OF REGULATORY REFORM, SHALL BE uniform, and shall con-
10 form as nearly as practicable to the classification, arrangement,
11 numbering, and indexing of the compiled laws. The ~~bureau~~
12 OFFICE OF REGULATORY REFORM may correct in the publications obvi-
13 ous errors in rules when requested by the promulgating agency to
14 do so. The ~~bureau~~ OFFICE OF REGULATORY REFORM may provide for
15 publishing all or any part of the Michigan administrative code in
16 bound volume, pamphlet, ELECTRONIC, or loose-leaf form. THIS
17 SUBSECTION DOES NOT PREVENT A LEGISLATOR FROM PROVIDING A COPY OR
18 REPRODUCTION OF A RULE TO A MEMBER OF THE GENERAL PUBLIC.

19 (2) An annual supplement to the Michigan administrative code
20 shall be published at the earliest practicable date.

21 Sec. 57. (1) The ~~legislative service bureau~~ OFFICE OF
22 REGULATORY REFORM may omit from the Michigan register, ~~and~~ the
23 Michigan administrative code, and the MICHIGAN ADMINISTRATIVE
24 code's annual supplement — any rule, the publication of which
25 would be unreasonably expensive or lengthy if the rule in printed
26 or reproduced form is made available on application to the
27 promulgating agency, ~~and~~ if the MICHIGAN ADMINISTRATIVE code

1 publication and the Michigan register contain a notice stating
2 the general subject of the omitted rule and how a copy of the
3 rule may be obtained.

4 (2) The cost of publishing and distributing annual supple-
5 ments to the Michigan administrative code and proposed rules,
6 notices of public hearings on proposed rules, ~~small business~~
7 ~~economic impact statements, administrative~~ rules and emergency
8 rules filed with the secretary of state, notices of proposed and
9 adopted agency guidelines, and the items listed in section 7(1)
10 in the Michigan register ~~shall~~ MAY be prorated by the
11 ~~legislative service bureau~~ OFFICE OF REGULATORY REFORM on the
12 basis of the volume of these materials published for each agency
13 in the Michigan register and annual supplement to the Michigan
14 administrative code, and the cost of publishing and distribution
15 shall be paid out of appropriations to the agencies.

16 Sec. 58. (1) When requested by an agency, the ~~legislative~~
17 ~~service bureau~~ OFFICE OF REGULATORY REFORM shall prepare repro-
18 duction proofs or negatives of the rules, or a portion of the
19 rules, of the agency. The requesting agency shall reimburse the
20 ~~legislative service bureau~~ OFFICE OF REGULATORY REFORM for pre-
21 paring the reproduction proofs or negatives, and the cost of the
22 preparation shall be paid out of appropriations to the agency.

23 (2) The Michigan administrative code may be arranged and
24 printed to make convenient the publication ELECTRONICALLY OR in
25 separate pamphlets of the parts of the MICHIGAN ADMINISTRATIVE
26 code relating to different agencies. Agencies may order the

1 separate pamphlets, and the cost of the pamphlets shall be paid
2 out of appropriations to the agencies.

3 Sec. 59. (1) The ~~legislative service bureau~~ OFFICE OF
4 REGULATORY REFORM shall publish or order published a sufficient
5 number of copies of the Michigan register, the Michigan adminis-
6 trative code, and the annual supplement to the MICHIGAN
7 ADMINISTRATIVE code to meet the requirements of this section.
8 Unless otherwise directed by the ~~legislative service bureau~~
9 OFFICE OF REGULATORY REFORM, the department of management and
10 budget shall deliver or provide copies as follows:

11 (a) To the secretary of the senate, a sufficient number to
12 supply each senator.

13 (b) To the clerk of the house of representatives, a suffi-
14 cient number to supply each representative.

15 (2) The copies of the Michigan register, the Michigan admin-
16 istrative code, and the annual MICHIGAN ADMINISTRATIVE code sup-
17 plement are for official use only by the agencies and persons
18 prescribed in subsection (1), and they shall deliver them to
19 their successors. The department of management and budget shall
20 hold additional copies for sale at a price not less than the pub-
21 lication and distribution costs which shall be determined by the
22 ~~legislative service bureau~~ OFFICE OF REGULATORY REFORM. ANY
23 MONEY COLLECTED BY THE DEPARTMENT OF MANAGEMENT AND BUDGET FOR
24 THE ADMINISTRATIVE CODE UNDER THIS SUBSECTION IS TO BE DEPOSITED
25 INTO THE GENERAL FUND.

26 (3) A person may subscribe to the Michigan register, THE
27 MICHIGAN ADMINISTRATIVE CODE, AND THE ANNUAL SUPPLEMENT TO THE

1 MICHIGAN ADMINISTRATIVE CODE. The ~~legislative service bureau~~
2 OFFICE OF REGULATORY REFORM shall determine a subscription price
3 ~~which~~ THAT shall not be more than the publication and distribu-
4 tion costs.

5 Enacting section 1. This amendatory act takes effect
6 January 1, 2000.

7 Enacting section 2. This amendatory act does not take
8 effect unless all of the following bills of the 90th Legislature
9 are enacted into law:

10 (a) Senate Bill No. 878.

11

12 (b) Senate Bill No. 879.

13