



Senate Fiscal Agency
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BILL



ANALYSIS

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House Bill 5714 (as passed by the House)
Sponsor: Representative Pat Somerville
House Committee: Judiciary

CONTENT

The bill would amend the Administrative Procedures Act to establish procedures for the adoption of an emergency rule without a public hearing if the Director of the Department of Community Health determined that an imminent danger to the health or lives of individuals in the State could be prevented or controlled by scheduling a substance as a controlled substance under the Public Health Code, and the administrator (the Michigan Board of Pharmacy or its designated or established authority) determined that the substance should be scheduled or rescheduled as a controlled substance.

Under those circumstances, the Department of Licensing and Regulatory Affairs could dispense with all or part of the procedures required under Sections 41 and 42 of the Act, and file copies with the Secretary of State as required by the Act. (Sections 41 and 42 contain public hearing, notice, and publication requirements that must be met before a rule is adopted.) The Office of Regulatory Reinvention (ORR) would have to submit the emergency rule draft language to the Legislative Service Bureau (LSB) for formal certification. If the LSB failed to issue a certificate of approval within seven business days after receiving the draft language, the ORR could issue a certificate of approval. Upon receipt from the LSB, the ORR would be required, within seven business days, to approve the rule if the ORR considered the rule to be legal and appropriate.

An emergency rule adopted under these provisions would remain in effect until the earliest of the following: an identical or similar rule was promulgated; an identical or similar bill was enacted; the administrator determined that the emergency rule was no longer necessary; or six months after its filing. The six-month period could be extended for another six months if the administrator filed a certificate of extension with the Secretary of State before the first period expired.

The bill is tie-barred to Senate Bill 789 and House Bill 5338. (Those bills would amend the Public Health Code to establish procedures for the temporary scheduling of a substance as a controlled substance in order to prevent or control an imminent danger to life or health.)

MCL 24.248

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have an indeterminate, but likely slightly negative fiscal impact on the State's finances. The Department of Licensing and Regulatory Affairs (LARA) and Department of Community Health (DCH) would experience increased administrative costs associated with the issuance of emergency rules as authorized in the bill. These costs would likely be relatively small, as the costs associated with the promulgation of nonemergency rules include activities such as publishing notices for public hearings, holding public hearings and producing various documents that explain the rules and their impacts. These activities and their associated costs would not apply to emergency rules, meaning personnel costs would

be the only major expense associated with the emergency rules under the bill. The DCH, LARA, and the Legislative Service Bureau all would incur personnel costs for their respective responsibilities under the bill. It is not known at this time what the specific costs to each agency would be, but the costs would likely vary with the complexity of each emergency rule considered under the bill.

Date Completed: 6-8-12

Fiscal Analyst: Steve Angelotti
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.