

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2003**

Introduced by Reps. Pappageorge, Van Regenmorter, Ehardt, Koetje, Drolet, Howell and Kooiman

ENROLLED HOUSE BILL No. 4511

AN ACT to amend 1969 PA 306, entitled "An act to provide for the effect, processing, promulgation, publication, and inspection of state agency rules, determinations, and other matters; to provide for the printing, publishing, and distribution of certain publications; to provide for state agency administrative procedures and contested cases and appeals from contested cases in licensing and other matters; to create and establish certain committees and offices; to provide for declaratory judgments as to rules; to repeal certain acts and parts of acts; and to repeal certain parts of this act on a specific date," by amending sections 45 and 45a (MCL 24.245 and 24.245a), section 45 as amended and section 45a as added by 1999 PA 262.

The People of the State of Michigan enact:

Sec. 45. (1) If approved by the office of regulatory reform, the agency may submit the proposed rule to the legislative service bureau for its formal certification. The legislative service bureau promptly shall approve a proposed rule if it considers the proposed rule to be proper as to all matters of form, classification, and arrangement. The office of regulatory reform may approve a proposed rule if it considers the proposed rule to be legal.

(2) Except as provided in subsection (7), after notice is given as provided in this act and before the agency proposing the rule has formally adopted the rule, the agency shall prepare an agency report containing a synopsis of the comments contained in the public hearing record and shall describe any changes in the proposed rules that were made by the agency after the public hearing. The office of regulatory reform shall transmit by letter to the committee copies of the rule, the agency reports, and certificates of approval from the legislative service bureau and the office of regulatory reform. The number of copies transmitted shall be the number required in the committee procedures and standards but not to exceed 12 copies. The agency shall transmit to the committee the documents described in this subsection within 1 year after the date of the last public hearing on the proposed rule unless the proposed rule is a resubmission under section 45a(7). Within 5 days after receipt of an agency report that contains a synopsis of the comments of the public hearing record and that describes any changes in the proposed rule made by the agency after the public hearing, the office of regulatory reform shall publish the agency report on its website.

(3) Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the letter of transmittal a regulatory impact statement containing all of the following information:

(a) A comparison of the proposed rule to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

(b) An identification of the behavior and frequency of behavior that the rule is designed to alter.

(c) An identification of the harm resulting from the behavior that the rule is designed to alter and the likelihood that the harm will occur in the absence of the rule.

(d) An estimate of the change in the frequency of the targeted behavior expected from the rule.

(e) An identification of the businesses, groups, or individuals who will be directly affected by, bear the cost of, or directly benefit from the rule.

(f) An identification of any reasonable alternatives to regulation pursuant to the proposed rule that would achieve the same or similar goals.

(g) A discussion of the feasibility of establishing a regulatory program similar to that proposed in the rule that would operate through market-based mechanisms.

(h) An estimate of the cost of rule imposition on the agency promulgating the rule.

(i) An estimate of the actual statewide compliance costs of the proposed rule on individuals.

(j) An estimate of the actual statewide compliance costs of the proposed rule on businesses and other groups.

(k) An identification of any disproportionate impact the proposed rule may have on small businesses because of their size.

(l) An identification of the nature of any report and the estimated cost of its preparation by small business required to comply with the proposed rule.

(m) An analysis of the costs of compliance for all small businesses affected by the proposed rule, including costs of equipment, supplies, labor, and increased administrative costs.

(n) An identification of the nature and estimated cost of any legal consulting and accounting services that small businesses would incur in complying with the proposed rule.

(o) An estimate of the ability of small businesses to absorb the costs estimated under subdivisions (l) through (n) without suffering economic harm and without adversely affecting competition in the marketplace.

(p) An estimate of the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

(q) An identification of the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

(r) A statement describing the manner in which the agency reduced the economic impact of the rule on small businesses or a statement describing the reasons such a reduction was not feasible.

(s) A statement describing whether and how the agency has involved small businesses in the development of the rule.

(t) An estimate of the primary and direct benefits of the rule.

(u) An estimate of any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the rule.

(v) An estimate of any increase in revenues to state or local governmental units as a result of the rule.

(w) An estimate of any secondary or indirect benefits of the rule.

(x) An identification of the sources the agency relied upon in compiling the regulatory impact statement.

(y) Any other information required by the office of regulatory reform.

(4) The agency shall transmit the regulatory impact statement required under subsection (3) to the office of regulatory reform at least 28 days before the public hearing required pursuant to section 42. Before the public hearing can be held, the regulatory impact statement must be approved by the office of regulatory reform. The agency shall also transmit a copy of the regulatory impact statement to the committee before the public hearing and the agency shall make copies available to the public at the public hearing.

(5) The committee shall furnish the senate fiscal agency and the house fiscal agency with a copy of each rule and regulatory impact statement filed with the committee, as well as a copy of the agenda identifying the proposed rules to be considered by the committee. The senate fiscal agency and the house fiscal agency shall analyze each proposed rule for possible fiscal implications which, if adopted, would result in additional appropriations in the current fiscal year or commit the legislature to an appropriation in a future fiscal year. The senate fiscal agency and the house fiscal agency shall report their findings in writing to the senate and house appropriations committees and to the committee before the date of consideration of the proposed rule by the committee.

(6) At the time an agency submits a proposed rule to the legislative service bureau for its formal certification pursuant to subsection (1), the agency shall also transmit, electronically, or by mail if requested, a copy of the proposed rule to each person who presented data, views, questions, or arguments at a public hearing on the proposed rule.

(7) Subsections (2), (3), and (4) do not apply to a rule that is promulgated under sections 33, 44, and 48.

Sec. 45a. (1) Except as otherwise provided for in subsections (7) and (8), after receipt by the committee of the letter of transmittal specified in section 45(2), the committee has 30 session days in which to consider the rule and to object to the rule by filing a notice of objection approved by a concurrent majority of the committee members. A notice of objection may only be approved by the committee if the committee affirmatively determines by a concurrent majority that 1 or more of the following conditions exist:

(a) The agency lacks statutory authority for the rule.

(b) The agency is exceeding the statutory scope of its rule-making authority.

(c) There exists an emergency relating to the public health, safety, and welfare that would warrant disapproval of the rule.

(d) The rule is in conflict with state law.

(e) A substantial change in circumstances has occurred since enactment of the law upon which the proposed rule is based.

(f) The rule is arbitrary or capricious.

(g) The rule is unduly burdensome to the public or to a licensee licensed by the rule.

(2) If the committee does not file a notice of objection within the time period prescribed in subsection (1), the office of regulatory reform may immediately file the rule with the secretary of state. The rule shall take effect 7 days after the date of its filing unless a later date is indicated within the rule.

(3) If the committee files a notice of objection within the time period prescribed in subsection (1), the committee chair, the alternate chair, or any member of the committee shall cause bills to be introduced in both houses of the legislature simultaneously. Each house shall place the bill or bills directly on its calendar. The bills shall contain 1 or more of the following:

(a) A rescission of a rule upon its effective date.

(b) A repeal of the statutory provision under which the rule was authorized.

(c) A bill staying the effective date of the proposed rule for up to 1 year.

(4) The notice of objection filed under subsection (3) stays the ability of the office of regulatory reform to file the rule with the secretary of state for 30 session days.

(5) If the legislation introduced pursuant to subsection (3) is defeated in either house and if the vote by which the legislation failed to pass is not reconsidered in compliance with the rules of that house, or if legislation introduced pursuant to subsection (3) is not adopted by both houses within the time period specified in subsection (4), the office of regulatory reform may file the rule with the secretary of state. Upon filing with the secretary of state, the rule shall take effect 7 days after the filing date unless a later date is specified within the rule.

(6) If the legislation introduced pursuant to subsection (3) is enacted by the legislature and presented to the governor within the 30-session-day period, the rules do not become effective unless the legislation is vetoed by the governor as provided by law. If the governor vetoes the legislation, the office of regulatory reform may file the rules immediately. The rule shall take effect 7 days after the date of its filing unless a later effective date is indicated within the rule.

(7) An agency may withdraw a proposed rule under the following conditions:

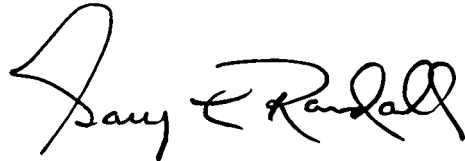
(a) With permission of the chair and alternate chair, the agency may withdraw the rule and resubmit it. If permission to withdraw is granted, the 30-session-day time period described in subsection (1) is tolled until the rule is resubmitted.

(b) Without permission of the chair and alternate chair, the agency may withdraw the rule and resubmit it. If permission to withdraw is not granted, a new and untolled 30-session-day time period described in subsection (1) shall begin upon resubmission of the rule to the committee for consideration.

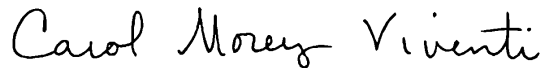
(8) Subsections (1) through (5) do not apply to rules adopted under sections 33, 44, and 48.

(9) As used in this section, "session day" means each day in which a quorum of both the house of representatives and the senate, following a call to order, officially convenes in Lansing to conduct legislative business.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor