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Senate Bill 273 (as reported without amendment)  
Senate Bill 276 (Substitute S-1 as reported)  
Senate Bill 278 (Substitute S-1 as reported)  
Sponsor: Senator Dave Robertson (S.B. 273 & 276)  
          Senator Goeff Hansen (S.B. 278)  
Committee: Economic Development

## **CONTENT**

Senate Bill 273 would amend Public Act 27 of 1984, which provides civil immunity to members of the Legislature for acts done pursuant to duty as legislators, to revise a provision pertaining to a contested case under the Administrative Procedures Act (APA).

Under Public Act 27, a member of the Legislature may not be made a party in a contested case under Section 3(3) of the APA, or any other administrative proceeding, for any act done by him or her "pursuant to" his or her duty as a legislator. Under the bill, a member of the Legislature could not be made a party to a contested case under Section 3 or any other administrative proceeding for any act committed by the legislator "while performing" his or her duty as a legislator. (Section 3 of the APA defines various terms, including "contested case".)

Senate Bill 276 (S-1) would amend the Administrative Procedures Act to do the following:

- Require an agency's request for rule-making to include the decision record of an advisory committee, if applicable.
- Refer to the Office of Regulatory Reinvention (ORR), rather than the State Office of Administrative Hearings and Rules (SOAHR).
- Specify that ORR would not be required to approve a request for rule-making and could do so only after it had indicated that there were appropriate and necessary bases for approving the request.
- Require ORR to issue a response to a request for rule-making that specifically addressed whether there were appropriate and necessary bases for approval.
- Require ORR to post certain information regarding a proposed rule on its website and to facilitate linking that information to the appropriate department or agency website.

(Under Executive Orders 2011-4 and 2011-5, SOAHR was abolished and its rule-making authority was transferred to ORR.)

Senate Bill 278 (S-1) would amend the APA to do the following:

- Require an agency's annual regulatory plan to include rules the agency expected to review in the next year.
- Require an agency and appropriate standing committees of the Legislature to review each set of rules over a six-year period, based on the priority specified in the bill.
- Establish standards for a review of rules required by the bill.

A review of rules would have to state the following:

- The continued need for the rules.
- The nature of any complaints or comments received from the public concerning the rules.
- The complexity of complying with the rules.
- The extent to which the rules conflicted with or duplicated similar rules or regulations adopted by the Federal government or local units of government.
- The date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors had changed regulatory activity covered by the rules.

MCL 4.552 (S.B. 273)  
24.203 et al. (S.B. 276)  
24.253 (S.B. 278)

Legislative Analyst: Julie Cassidy

### **FISCAL IMPACT**

Senate Bill 273 would have no fiscal impact on State or local government.

Senate Bill 276 (S-1) would require the Office of Regulatory Invention to issue a response to each request for administrative rules addressing whether there were policy and legal bases for the rule under consideration. Currently, SOAHR must document the request. The bill's requirement could result in some additional administrative costs.

Senate Bill 278 (S-1) would require the department or other agency that promulgated rules to periodically review and assess each rule and determine its impact on businesses. This process could potentially result in some additional administrative costs to each department or agency that promulgates administrative rules.

Date Completed: 5-4-11

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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.