

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2011**

**Introduced by Senators Pappageorge, Kowall, Nofs, Marleau, Caswell, Colbeck, Booher, Proos, Kahn,
Schuitmaker, Brandenburg, Emmons, Hansen, Hildenbrand, Hune, Jansen, Jones, Meekhof, Moolenaar,
Pavlov and Richardville**

ENROLLED SENATE BILL No. 274

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 35 and 45a (MCL 24.235 and 24.245a), section 35 as amended by 1995 PA 178 and section 45a as amended by 2004 PA 491.

The People of the State of Michigan enact:

Sec. 35. (1) The joint committee on administrative rules is created and consists of 5 members of the senate and 5 members of the house of representatives appointed in the same manner as standing committees are appointed for terms of 2 years. Of the 5 members in each house, 3 shall be from the majority party and 2 shall be from the minority party. The chairperson of the committee shall alternate between houses each year. Members of the committee shall serve without compensation but shall be reimbursed for expenses incurred in the business of the committee. The expenses of the members of the senate shall be paid from appropriations to the senate and the expenses of the members of the house of representatives shall be paid from appropriations to the house of representatives. The committee may meet during a session of the legislature and during an interim between sessions. The committee may hold a hearing on a rule transmitted to the committee, any rule previously filed with the secretary of state, or any other matter the committee considers appropriate. Action by the committee, including action taken under section 52, shall be by concurring majorities of the members from each house. The committee shall report its activities and recommendations to the legislature at each regular session.

(2) The committee may hire staff to assist the committee under this act. However, the supervision of staff, budgeting, procurement, and related functions of the committee shall be performed by the council administrator under section 104a of the legislative council act, 1986 PA 268, MCL 4.1104a.

Sec. 45a. (1) Except as otherwise provided in subsections (7) to (9), after the committee has received the notice of transmittal specified in section 45(2), the committee has 15 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 or the committee

may, by concurrent majority, waive the remaining session days. If the committee waives the remaining session days, the clerk of the committee shall promptly notify the office of regulatory reinvention of the waiver by electronic transmission. The committee may only approve a notice of objection 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 conflicts 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) or if the committee waives the remaining session days by concurrent majority, the office of regulatory reinvention may immediately file the rule, with the certificate of approval required under section 45(1), with the secretary of state. The rule takes effect immediately upon its filing with the secretary of state 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 reinvention to file the rule with the secretary of state until the earlier of the following:

- (a) Fifteen session days after the notice of objection is filed under subsection (3).
- (b) The date of the rescission of the issuance of the notice of objection, approved by a concurrent majority of the committee members. The committee may meet to rescind the issuance of the notice of objection under this subdivision. If the committee rescinds the issuance of a notice of objection under this subdivision, the clerk of the committee shall promptly notify the office of regulatory reinvention by electronic transmission of the rescission.

(5) If the legislation introduced under 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 under subsection (3) is not adopted by both houses within the time period specified in subsection (4), the office of regulatory reinvention may file the rule with the secretary of state. The rule takes effect immediately upon its filing with the secretary of state unless a later date is specified within the rule.

(6) If the legislation introduced under subsection (3) is enacted by the legislature and presented to the governor within the 15-session-day period, the rule does not take effect unless the legislation is vetoed by the governor as provided by law. If the governor vetoes the legislation, the office of regulatory reinvention may file the rule with the secretary of state immediately. The rule takes effect 7 days after the date of its filing with the secretary of state 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 committee chair and alternate chair, the agency may withdraw the rule and resubmit it. If permission to withdraw is granted, the 15-session-day time period described in subsection (1) is tolled until the rule is resubmitted, except that the committee shall have at least 6 session days after resubmission to consider the resubmitted rule.

(b) Without permission of the committee chair and alternate chair, the agency may withdraw the rule and resubmit it. If permission to withdraw is not granted, a new and untolled 15-session-day time period described in subsection (1) shall begin upon resubmission of the rule to the committee for consideration.

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

(9) An agency shall withdraw any rule pending before the committee at the final adjournment of a regular session held in an even-numbered year and resubmit that rule. A new and untolled 15-session-day time period described in subsection (1) shall begin upon resubmission of the rule to the committee for consideration.

(10) As used in this section only, "session day" means a day in which both the house of representatives and the senate convene in session and a quorum is recorded.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved

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Governor