

# HOUSE BILL No. 4039

January 13, 2011, Introduced by Reps. Kowall, Johnson, Shaughnessy, Yonker, Callton, Haines, O'Brien, MacGregor, Jacobsen, Knollenberg, Potvin and Meadows and referred to the Committee on Government Operations.

A bill to amend 1969 PA 306, entitled "Administrative procedures act of 1969," by amending sections 3, 5, 7a, 40, 44, 45, and 45a (MCL 24.203, 24.205, 24.207a, 24.240, 24.244, 24.245, and 24.245a), section 3 as amended by 1988 PA 277, section 5 as amended by 2006 PA 460, sections 7a and 40 as amended by 1999 PA 262, section 44 as amended by 2004 PA 23, and sections 45 and 45a as amended by 2004 PA 491, and by adding section 9.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 3. (1) "ACTIVITY" MEANS THAT TERM AS DEFINED IN SECTION 2  
2 OF THE PREVENTION OF UNFUNDED MANDATES ACT.

3           (2) ~~(1)~~—"Adoption of a rule" means that step in the processing  
4 of a rule consisting of the formal action of an agency establishing

1 a rule before its promulgation.

2 (3) ~~(2)~~—"Agency" means a state department, bureau, division,  
 3 section, board, commission, trustee, authority or officer, created  
 4 by the constitution, statute, or agency action. Agency does not  
 5 include an agency in the legislative or judicial branch of state  
 6 government, the governor, an agency having direct governing control  
 7 over an institution of higher education, the state civil service  
 8 commission, or an association of insurers created under the  
 9 insurance code of 1956, ~~Act No. 218 of the Public Acts of 1956,~~  
 10 ~~being sections 1956 PA 218, MCL 500.100 to 500.8302, of the~~  
 11 ~~Michigan Compiled Laws,~~ or other association or facility formed  
 12 under ~~Act No. 218 of the Public Acts of 1956~~ **THAT ACT** as a  
 13 nonprofit organization of insurer members.

14 (4) ~~(3)~~—"Contested case" means a proceeding, including rate-  
 15 making, price-fixing, and licensing, in which a determination of  
 16 the legal rights, duties, or privileges of a named party is  
 17 required by law to be made by an agency after an opportunity for an  
 18 evidentiary hearing. When a hearing is held before an agency and an  
 19 appeal from its decision is taken to another agency, the hearing  
 20 and the appeal are deemed to be a continuous proceeding as though  
 21 before a single agency.

22 (5) ~~(4)~~—"Committee" means the joint committee on  
 23 administrative rules.

24 (6) ~~(5)~~—"Court" means the circuit court.

25 (7) **"EXISTING LAW" MEANS THAT TERM AS DEFINED IN SECTION 3 OF**  
 26 **THE PREVENTION OF UNFUNDED MANDATES ACT.**

27 (8) ~~(6)~~—"Guideline" means an agency statement or declaration

1 of policy which the agency intends to follow, which does not have  
2 the force or effect of law, and which binds the agency but does not  
3 bind any other person.

4 Sec. 5. (1) "License" includes the whole or part of an agency  
5 permit, certificate, approval, registration, charter, or similar  
6 form of permission required by law, but does not include a license  
7 required solely for revenue purposes, or a license or registration  
8 issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to  
9 257.923.

10 (2) "Licensing" includes agency activity involving the grant,  
11 denial, renewal, suspension, revocation, annulment, withdrawal,  
12 recall, cancellation, or amendment of a license.

13 (3) **"LOCAL UNIT OF GOVERNMENT" MEANS THAT TERM AS DEFINED IN**  
14 **SECTION 3 OF THE PREVENTION OF UNFUNDED MANDATES ACT.**

15 (4) ~~(3)~~—"Michigan register" means the publication described in  
16 section 8.

17 (5) **"NEW ACTIVITY OR SERVICE OR INCREASE IN THE LEVEL OF AN**  
18 **EXISTING ACTIVITY OR SERVICE" MEANS THAT TERM AS DEFINED IN SECTION**  
19 **3 OF THE PREVENTION OF UNFUNDED MANDATES ACT.**

20 (6) ~~(4)~~—"Notice" means a written or electronic record that  
21 informs a person of past or future action of the person generating  
22 the record.

23 (7) ~~(5)~~—"Notice of objection" means the record adopted by the  
24 committee that indicates the committee's formal objection to a  
25 proposed rule.

26 (8) ~~(6)~~—"Party" means a person or agency named, admitted, or  
27 properly seeking and entitled of right to be admitted, as a party

1 in a contested case. In a contested case regarding an application  
2 for a license, party includes the applicant for that license.

3 (9) ~~(7)~~—"Person" means an individual, partnership,  
4 association, corporation, limited liability company, limited  
5 liability partnership, governmental subdivision, or public or  
6 private organization of any kind other than the agency engaged in  
7 the particular processing of a rule, declaratory ruling, or  
8 contested case.

9 (10) ~~(8)~~—"Processing of a rule" means the action required or  
10 authorized by this act regarding a rule that is to be promulgated,  
11 including the rule's adoption, and ending with the rule's  
12 promulgation.

13 (11) ~~(9)~~—"Promulgation of a rule" means that step in the  
14 processing of a rule consisting of the filing of a rule with the  
15 secretary of state.

16 (12) ~~(10)~~—"Record" means information that is inscribed on a  
17 paper or electronic medium.

18 Sec. 7a. (1) **"SERVICE" MEANS THAT TERM AS DEFINED IN SECTION 4**  
19 **OF THE PREVENTION OF UNFUNDED MANDATES ACT.**

20 (2) "Small business" means a business concern incorporated or  
21 doing business in this state, including the affiliates of the  
22 business concern, which is independently owned and operated and  
23 which employs fewer than 250 full-time employees or which has gross  
24 annual sales of less than \$6,000,000.00.

25 (3) **"STATE REQUIREMENT" MEANS THAT TERM AS DEFINED IN SECTION**  
26 **4 OF THE PREVENTION OF UNFUNDED MANDATES ACT.**

27 **SEC. 9. TO COMPLY WITH SECTION 29 OF ARTICLE IX OF THE STATE**

1 CONSTITUTION OF 1963 AND NOTWITHSTANDING ANY PROVISIONS TO THE  
2 CONTRARY, THE FOLLOWING APPLY:

3 (A) A NEW ACTIVITY OR SERVICE OR AN INCREASE IN THE LEVEL OF  
4 ANY ACTIVITY OR SERVICE BEYOND THAT REQUIRED BY EXISTING LAW SHALL  
5 NOT BE REQUIRED OF A LOCAL UNIT OF GOVERNMENT BY ANY STATE AGENCY  
6 RULE, REGULATION, BULLETIN, OR DIRECTIVE UNLESS AN APPROPRIATION  
7 HAS BEEN MADE BY THE LEGISLATURE AND A DISBURSEMENT SYSTEM HAS BEEN  
8 ESTABLISHED TO PAY THE AFFECTED LOCAL UNITS OF GOVERNMENT FOR ANY  
9 NECESSARY INCREASED COSTS OF THAT STATE REQUIREMENT.

10 (B) AN ENFORCEMENT PROCESS OR PROCEEDING SHALL NOT BE  
11 INITIATED AGAINST A LOCAL UNIT OF GOVERNMENT AND A SANCTION OR  
12 PENALTY OF ANY SORT, ADMINISTRATIVE, CIVIL, OR CRIMINAL, SHALL NOT  
13 BE IMPOSED BY A STATE AGENCY ON A LOCAL UNIT OF GOVERNMENT OR ITS  
14 ADMINISTRATORS OR OTHER STAFF FOR NONCOMPLIANCE WITH THE  
15 REQUIREMENTS OF ANY STATE AGENCY RULE, REGULATION, BULLETIN, OR  
16 DIRECTIVE UNLESS A DISBURSEMENT SYSTEM HAS BEEN ESTABLISHED AND AN  
17 APPROPRIATION HAS BEEN MADE BY THE LEGISLATURE TO PAY THE AFFECTED  
18 LOCAL UNITS OF GOVERNMENT FOR ANY NECESSARY INCREASED COSTS OF SUCH  
19 REQUIREMENT.

20 Sec. 40. (1) When an agency proposes to adopt a rule that will  
21 apply to a small business and the rule will have a disproportionate  
22 impact on small businesses because of the size of those businesses,  
23 the agency proposing to adopt the rule shall reduce the economic  
24 impact of the rule on small businesses by doing 1 or more of the  
25 following when it is lawful and feasible in meeting the objectives  
26 of the act authorizing the promulgation of the rule:

27 (a) Establish differing compliance or reporting requirements

1 or timetables for small businesses under the rule.

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

4 (c) Establish performance rather than design standards, when  
5 appropriate.

6 (d) Exempt small businesses from any or all of the  
7 requirements of the rule.

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

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

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

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

14 (3) For purposes of subsection (2), an agency may include a  
15 small business with a greater number of full-time employees in a  
16 classification that applies to a business with fewer full-time  
17 employees.

18 (4) This section and section ~~45(3)~~**45(4)** do not apply to a  
19 rule which is required by federal law and which an agency  
20 promulgates without imposing standards more stringent than those  
21 required by the federal law.

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

1           (2) Sections 41 and 42 do not apply to a rule that is  
2 promulgated under the Michigan occupational safety and health act,  
3 1974 PA 154, MCL 408.1001 to 408.1094, that is substantially  
4 similar to an existing federal standard that has been adopted or  
5 promulgated under the occupational safety and health act of 1970,  
6 Public Law 91-596, 84 Stat. 1590. However, notice of the proposed  
7 rule shall be published in the Michigan register at least 35 days  
8 before the submission of the rule to the secretary of state  
9 pursuant to section 46(1). A reasonable period, not to exceed 21  
10 days, shall be provided for the submission of written or electronic  
11 comments and views following publication in the Michigan register.

12           (3) For purposes of subsection (2), "substantially similar"  
13 means identical, with the exception of style or format differences  
14 needed to conform to this or other state laws. ~~as determined by~~  
15 ~~the office of regulatory reform pursuant to section 45(1).~~

16           Sec. 45. (1) Except as otherwise provided for in this  
17 subsection, the agency shall submit the proposed rule to the  
18 legislative service bureau for its formal certification. The  
19 submission to the legislative service bureau for formal  
20 certification shall be in the form of electronic transmission. If  
21 requested by the legislative service bureau, the **STATE** office of  
22 ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES** shall also  
23 transmit up to 4 paper copies of the proposed rule. The legislative  
24 service bureau shall promptly issue a certificate of approval  
25 indicating a determination that a proposed rule is proper as to all  
26 matters of form, classification, and arrangement. If the  
27 legislative service bureau fails to issue a certificate of approval

1 within 21 calendar days after receipt of the submission for formal  
2 certification, the **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE**  
3 **HEARINGS AND RULES** may issue a certificate of approval. If the  
4 submission to the legislative service bureau is returned by the  
5 legislative service bureau to the agency before the expiration of  
6 the 21-calendar-day time period, the 21-calendar-day time period is  
7 tolled until the rule is resubmitted by the agency. The remainder  
8 of the 21-calendar-day time period or 6 calendar days, whichever is  
9 longer, shall be available for consideration by the legislative  
10 service bureau for formal certification of the rule. The **STATE**  
11 office of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES** may  
12 approve a proposed rule if it considers the proposed rule to be  
13 legal.

14 (2) **THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES**  
15 **SHALL ISSUE A REPORT DESCRIBING WHETHER ANY PROVISIONS OF THE**  
16 **PROPOSED RULE ARE IN COMPLIANCE WITH SECTION 29 OF ARTICLE IX OF**  
17 **THE STATE CONSTITUTION OF 1963 AND THE PREVENTION OF UNFUNDED**  
18 **MANDATES ACT AND, AS PART OF THE REPORT, SHALL SPECIFICALLY CERTIFY**  
19 **WHETHER THE PROPOSED RULE REQUIRES LOCAL UNITS OF GOVERNMENT TO**  
20 **PROVIDE EITHER NEW ACTIVITIES OR SERVICES OR AN INCREASE IN THE**  
21 **LEVEL OF ANY ACTIVITY OR SERVICE BEYOND THAT REQUIRED BY EXISTING**  
22 **LAW. IF THE CERTIFICATION INDICATES THAT THE PROPOSED RULE REQUIRES**  
23 **LOCAL UNITS OF GOVERNMENT TO PROVIDE EITHER NEW ACTIVITIES OR**  
24 **SERVICES OR AN INCREASE IN THE LEVEL OF ANY ACTIVITY OR SERVICE**  
25 **BEYOND THAT REQUIRED BY EXISTING LAW, THEN THE REPORT SHALL**  
26 **DESCRIBE WHETHER A FISCAL NOTE HAS BEEN PREPARED REGARDING THE NEW**  
27 **ACTIVITY OR SERVICE OR INCREASE IN THE LEVEL OF ANY ACTIVITY OR**



1 SERVICE BEYOND THAT REQUIRED BY EXISTING LAW AND WHETHER AN  
2 APPROPRIATION COMPENSATING THE LOCAL UNITS OF GOVERNMENT FOR THE  
3 ACTIVITY OR SERVICE HAS BEEN MADE BY THE LEGISLATURE AND ENACTED  
4 INTO LAW. IF IT IS DETERMINED THAT THE RULES PROVIDE A NEW ACTIVITY  
5 OR SERVICE OR AN INCREASE IN THE LEVEL OF AN EXISTING ACTIVITY OR  
6 SERVICE, THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
7 SHALL SO INFORM THE LOCAL GOVERNMENT MANDATE PANEL DESCRIBED IN THE  
8 PREVENTION OF UNFUNDED MANDATES ACT AND REQUIRE THAT PANEL TO  
9 PREPARE AND CONVEY A FISCAL NOTE. THAT FISCAL NOTE SHALL BE  
10 PREPARED IN THE MANNER PROVIDED FOR IN THE PREVENTION OF UNFUNDED  
11 MANDATES ACT REGARDING ENACTED LEGISLATION. IF THE CERTIFICATION  
12 INDICATES NONCOMPLIANCE WITH SECTION 29 OF ARTICLE IX OF THE STATE  
13 CONSTITUTION OF 1963 AND THE PREVENTION OF UNFUNDED MANDATES ACT,  
14 THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES SHALL NOT  
15 TRANSMIT THE PROPOSED RULE TO THE COMMITTEE.

16 (3) ~~(2)~~—Except as provided in subsection ~~(6)~~—(7), after notice  
17 is given as provided in this act and before the agency proposing  
18 the rule has formally adopted the rule, the agency shall prepare an  
19 agency report containing a synopsis of the comments contained in  
20 the public hearing record and a copy of the regulatory impact  
21 statement required under subsection ~~(3)~~—(4). In the report, the  
22 agency shall describe any changes in the proposed rules that were  
23 made by the agency after the public hearing. The **STATE** office of  
24 ~~regulatory reform~~—**ADMINISTRATIVE HEARINGS AND RULES** shall transmit  
25 by notice of transmittal to the committee copies of the rule, the  
26 agency reports, a copy of the regulatory impact statement, and  
27 certificates of approval from the legislative service bureau and

1 the **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND**  
2 **RULES**. The **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE**  
3 **HEARINGS AND RULES** shall also electronically submit a copy of the  
4 rule, any agency reports required under this subsection, any  
5 regulatory impact statements required under subsection ~~(3)~~ **(4)**, and  
6 any certificates of approval required under ~~subsection (1)~~  
7 **SUBSECTIONS (1) AND (2)** to the committee. The agency shall  
8 electronically transmit to the committee the records described in  
9 this subsection within 1 year after the date of the last public  
10 hearing on the proposed rule unless the proposed rule is a  
11 resubmission under section 45a(7).

12 **(4)** ~~(3)~~—Except for a rule promulgated under sections 33, 44,  
13 and 48, the agency shall prepare and include with the notice of  
14 transmittal a regulatory impact statement containing all of the  
15 following information:

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

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

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

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

26 (e) An identification of the businesses, groups, or  
27 individuals who will be directly affected by, bear the cost of, or

1 directly benefit from the rule.

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

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

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

10 (i) An estimate of the actual statewide compliance costs of  
11 the proposed rule on individuals **AND LOCAL UNITS OF GOVERNMENT**.

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

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

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

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

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

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

1 in the marketplace.

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

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

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

11 (s) A statement describing whether and how the agency has  
12 involved small businesses **AND LOCAL UNITS OF GOVERNMENT** in the  
13 development of the rule.

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

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

19 (v) An estimate of any increase in revenues to state or local  
20 governmental units as a result of the rule **AND FACTS DEMONSTRATING**  
21 **COMPLIANCE WITH SECTION 29 OF ARTICLE IX OF THE STATE CONSTITUTION**  
22 **OF 1963 AND IMPLEMENTING LEGISLATION.**

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

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

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

1 reform.

2       (5) ~~(4)~~—The agency shall electronically transmit the  
3 regulatory impact statement required under subsection ~~(3)~~—(4) to  
4 the **STATE** office of ~~regulatory reform~~—**ADMINISTRATIVE HEARINGS AND**  
5 **RULES** at least 28 days before the public hearing required pursuant  
6 to section 42. Before the public hearing can be held, the  
7 regulatory impact statement must be reviewed and approved by the  
8 **STATE** office of ~~regulatory reform~~—**ADMINISTRATIVE HEARINGS AND**  
9 **RULES**. The agency shall also electronically transmit a copy of the  
10 regulatory impact statement to the committee before the public  
11 hearing and the agency shall make copies available to the public at  
12 the public hearing.

13       (6) ~~(5)~~—The committee shall electronically transmit to the  
14 senate fiscal agency and the house fiscal agency a copy of each  
15 rule and regulatory impact statement filed with the committee, as  
16 well as a copy of the agenda identifying the proposed rules to be  
17 considered by the committee. The senate fiscal agency and the house  
18 fiscal agency shall analyze each proposed rule for possible fiscal  
19 implications that, if the rule were adopted, would result in  
20 additional appropriations in the current fiscal year or commit the  
21 legislature to an appropriation in a future fiscal year. The senate  
22 fiscal agency and the house fiscal agency shall electronically  
23 report their findings to the senate and house appropriations  
24 committees and to the committee before the date of consideration of  
25 the proposed rule by the committee.

26       (7) ~~(6)~~—Subsections ~~(2)~~, (3), ~~and~~ (4), **AND (5)** do not apply to  
27 a rule that is promulgated under sections 33, 44, and 48.

1           Sec. 45a. (1) **THE COMMITTEE SHALL REJECT THE NOTICE OF**  
2 **TRANSMITTAL, REFUSE THE RECEIPT OF A PROPOSED RULE, AND RETURN A**  
3 **PROPOSED RULE TO THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AND**  
4 **RULES IF THE PROPOSED RULE IS NOT CERTIFIED TO BE IN COMPLIANCE**  
5 **WITH SECTION 29 OF ARTICLE IX OF THE STATE CONSTITUTION OF 1963 AND**  
6 **IMPLEMENTING LEGISLATION, AS FURTHER DESCRIBED IN SECTION 45(1) AND**  
7 **(2). THE REJECTION OF THE NOTICE OF TRANSMITTAL BY THE COMMITTEE**  
8 **STAYS THE ABILITY OF THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**  
9 **AND RULES TO PROCEED WITH THE PROCESSING OF THE RULE, UNTIL SUCH**  
10 **TIME AS THE COMPLIANCE WITH SECTION 29 OF ARTICLE IX OF THE STATE**  
11 **CONSTITUTION OF 1963 AND IMPLEMENTING LEGISLATION IS DEMONSTRATED.**  
12 Except as otherwise provided for in subsections (7) and (8), after  
13 receipt **AND ACCEPTANCE, AS APPLICABLE,** by the committee of the  
14 notice of transmittal specified in section ~~45(2),~~ **45(3),** the  
15 committee has 15 session days in which to consider the rule and to  
16 object to the rule by filing a notice of objection approved by a  
17 concurrent majority of the committee members or the committee may,  
18 by concurrent majority, waive the remaining session days. If the  
19 committee waives the remaining session days, the clerk of the  
20 committee shall promptly notify the **STATE** office of ~~regulatory~~  
21 ~~reform~~-**ADMINISTRATIVE HEARINGS AND RULES** of the waiver by  
22 electronic transmission. A notice of objection may only be approved  
23 by the committee if the committee affirmatively determines by a  
24 concurrent majority that 1 or more of the following conditions  
25 exist:  
26           (a) The agency lacks statutory authority for the rule.  
27           (b) The agency is exceeding the statutory scope of its rule-

1 making authority.

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

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

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

7 (f) The rule is arbitrary or capricious.

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

10 (2) If the committee does not file a notice of objection  
11 within the time period prescribed in subsection (1) or if the  
12 committee waives the remaining session days by concurrent majority,  
13 the **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND**  
14 **RULES** may immediately file the rule, with the certificate of  
15 approval required under section 45(1) **AND (2)**, with the secretary  
16 of state. The rule shall take effect immediately upon its filing  
17 unless a later date is indicated within the rule.

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

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

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

27 (c) A bill staying the effective date of the proposed rule for

1 up to 1 year.

2 (4) The notice of objection filed under subsection (3) stays  
3 the ability of the **STATE** office of ~~regulatory reform~~**ADMINISTRATIVE**  
4 **HEARINGS AND RULES** to file the rule with the secretary of state  
5 until the earlier of the following:

6 (a) Fifteen session days after the notice of objection is  
7 filed under subsection (3).

8 (b) The date of the rescission of the issuance of the notice  
9 of objection, approved by a concurrent majority of the committee  
10 members. The committee may meet to rescind the issuance of the  
11 notice of objection under this subdivision. If the committee  
12 rescinds the issuance of a notice of objection under this  
13 subdivision, ~~the clerk of the~~ committee shall promptly notify the  
14 **STATE** office of ~~regulatory reform~~**ADMINISTRATIVE HEARINGS AND RULES**  
15 by electronic transmission of the ~~rescission~~**RESCISSION**.

16 (5) If the legislation introduced pursuant to subsection (3)  
17 is defeated in either house and if the vote by which the  
18 legislation failed to pass is not reconsidered in compliance with  
19 the rules of that house, or if legislation introduced pursuant to  
20 subsection (3) is not adopted by both houses within the time period  
21 specified in subsection (4), the **STATE** office of ~~regulatory reform~~  
22 **ADMINISTRATIVE HEARINGS AND RULES** may file the rule with the  
23 secretary of state. The rule shall take effect immediately upon  
24 filing with the secretary of state unless a later date is specified  
25 within the rule.

26 (6) If the legislation introduced pursuant to subsection (3)  
27 is enacted by the legislature and presented to the governor within



1 the 15-session-day period, the rules do not become effective unless  
2 the legislation is vetoed by the governor as provided by law. If  
3 the governor vetoes the legislation, the **STATE** office of ~~regulatory~~  
4 ~~reform~~ **ADMINISTRATIVE HEARINGS AND RULES** may file the rules  
5 immediately. The rule shall take effect 7 days after the date of  
6 its filing unless a later effective date is indicated within the  
7 rule.

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

10 (a) With permission of the committee chair and alternate  
11 chair, the agency may withdraw the rule and resubmit it. If  
12 permission to withdraw is granted, the 15-session-day time period  
13 described in subsection (1) is tolled until the rule is  
14 resubmitted, except that the committee shall have at least 6  
15 session days after resubmission to consider the resubmitted rule.

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

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

23 (9) As used in this section only, "session day" means each day  
24 in which both the house of representatives and the senate convene  
25 in session.

26 Enacting section 1. This amendatory act does not take effect  
27 unless Senate Bill No. \_\_\_\_\_ or House Bill No. 4038(request no.

1 00052'11) of the 96th Legislature is enacted into law.