

HOUSE BILL No. 5811

August 15, 2012, Introduced by Reps. Goike, Johnson, Bumstead, Daley, Huuki, Pettalia, Rendon, McBroom, Glardon, Agema, MacMaster, Jenkins, Foster, Potvin and Wayne Schmidt and referred to the Committee on Regulatory Reform.

A bill to amend 1969 PA 306, entitled
"Administrative procedures act of 1969,"
by amending section 45 (MCL 24.245), as amended by 2011 PA 242.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 45. (1) Except as otherwise provided for in this
2 subsection, ~~the~~**AN** agency shall electronically submit a proposed
3 rule to the legislative service bureau for its formal
4 certification. If requested by the legislative service bureau, the
5 office of regulatory reinvention shall also transmit up to 4 paper
6 copies of the proposed rule. The legislative service bureau shall
7 promptly issue a certificate of approval indicating whether the
8 proposed rule is proper as to all matters of form, classification,
9 and arrangement. If the legislative service bureau fails to issue a

1 certificate of approval within 21 calendar days after receipt of
2 the submission for formal certification, the office of regulatory
3 reinvention may issue a certificate of approval. If the legislative
4 service bureau returns the submission to the agency before the
5 expiration of the 21-calendar-day time period, the 21-calendar-day
6 time period is tolled until the rule is resubmitted by the agency.
7 The legislative service bureau shall have the remainder of the 21-
8 calendar-day time period or 6 calendar days, whichever is longer,
9 to consider the formal certification of the rule. The office of
10 regulatory reinvention may approve a proposed rule if it considers
11 the proposed rule to be legal and appropriate.

12 (2) Except as provided in subsection (6), after notice is
13 given as provided in this act and before the agency proposing the
14 rule has formally adopted the rule, the agency shall prepare an
15 agency report containing a synopsis of the comments contained in
16 the public hearing record and a copy of the request for rule-making
17 and the regulatory impact statement required under subsection (3).
18 In the report, the agency shall describe any changes in the
19 proposed rules that were made by the agency after the public
20 hearing. The office of regulatory reinvention shall transmit by
21 notice of transmittal to the committee copies of the rule, the
22 agency reports containing the request for rule-making, a copy of
23 the regulatory impact statement, and certificates of approval from
24 the legislative service bureau and the office of regulatory
25 reinvention. The office of regulatory reinvention shall also
26 electronically submit a copy of the rule, any agency reports
27 required under this subsection, any regulatory impact statements

1 required under subsection (3), and any certificates of approval
2 required under subsection (1) to the committee. The agency shall
3 electronically transmit to the committee the records described in
4 this subsection within 1 year after the date of the last public
5 hearing on the proposed rule unless the proposed rule is a
6 resubmission under section 45a(7).

7 (3) Except as provided in subsection (6), an agency shall
8 prepare and include with a notice of transmittal under subsection
9 (2) the request for rule-making and the response from the office of
10 regulatory reinvention, a small business impact statement prepared
11 under section 40(1), and a regulatory impact statement. The
12 regulatory impact statement shall contain all of the following
13 information:

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

17 (b) If requested by the office of regulatory reinvention or
18 the committee, a comparison of the proposed rule to standards in
19 similarly situated states, based on geographic location,
20 topography, natural resources, commonalities, or economic
21 similarities.

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

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

27 (e) An estimate of the change in the frequency of the targeted

1 behavior expected from the rule.

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

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

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

11 (i) An estimate of the cost of rule imposition on the agency
12 promulgating the rule.

13 (j) An estimate of the actual statewide compliance costs of
14 the proposed rule on individuals.

15 **(K) A DEMONSTRATION THAT THE PROPOSED RULE IS NECESSARY AND**
16 **SUITABLE TO ACHIEVE ITS PURPOSE IN PROPORTION TO THE BURDENS IT**
17 **PLACES ON INDIVIDUALS.**

18 **(I)** ~~(k)~~—An estimate of the actual statewide compliance costs of
19 the proposed rule on businesses and other groups.

20 **(M)** ~~(l)~~—An identification of any disproportionate impact the
21 proposed rule may have on small businesses because of their size.

22 **(N)** ~~(m)~~—An identification of the nature of any report and the
23 estimated cost of its preparation by small business required to
24 comply with the proposed rule.

25 **(O)** ~~(n)~~—An analysis of the costs of compliance for all small
26 businesses affected by the proposed rule, including costs of
27 equipment, supplies, labor, and increased administrative costs.

1 (P) ~~(e)~~—An identification of the nature and estimated cost of
2 any legal consulting and accounting services that small businesses
3 would incur in complying with the proposed rule.

4 (Q) ~~(p)~~—An estimate of the ability of small businesses to
5 absorb the costs estimated under subdivisions ~~(m)~~—(N) to ~~(e)~~—(P)
6 without suffering economic harm and without adversely affecting
7 competition in the marketplace.

8 (R) ~~(q)~~—An estimate of the cost, if any, to the agency of
9 administering or enforcing a rule that exempts or sets lesser
10 standards for compliance by small businesses.

11 (S) ~~(r)~~—An identification of the impact on the public interest
12 of exempting or setting lesser standards of compliance for small
13 businesses.

14 (T) ~~(s)~~—A statement describing the manner in which the agency
15 reduced the economic impact of the rule on small businesses or a
16 statement describing the reasons such a reduction was not feasible.

17 (U) ~~(t)~~—A statement describing how the agency has involved
18 small businesses in the development of the rule.

19 (V) ~~(u)~~—An estimate of the primary and direct benefits of the
20 rule.

21 (W) ~~(v)~~—An estimate of any cost reductions to businesses,
22 individuals, groups of individuals, or governmental units as a
23 result of the rule.

24 (X) ~~(w)~~—An estimate of any increase in revenues to state or
25 local governmental units as a result of the rule.

26 (Y) ~~(x)~~—An estimate of any secondary or indirect benefits of
27 the rule.

1 **(Z)** ~~(y)~~—An identification of the sources the agency relied
2 upon in compiling the regulatory impact statement, including the
3 methodology utilized in determining the existence and extent of the
4 impact of a proposed rule and a cost-benefit analysis of the
5 proposed rule.

6 **(AA)** ~~(z)~~—A detailed recitation of the efforts of the agency to
7 comply with the mandate to reduce the disproportionate impact of
8 the rule upon small businesses as described in section 40(1)(a) to
9 (d).

10 **(BB)** ~~(aa)~~—Any other information required by the office of
11 regulatory reinvention.

12 (4) The agency shall electronically transmit the regulatory
13 impact statement required under subsection (3) to the office of
14 regulatory reinvention at least 28 days before the public hearing
15 required ~~pursuant to~~ **UNDER** section 42. Before the public hearing
16 can be held, the regulatory impact statement must be reviewed and
17 approved by the office of regulatory reinvention. The agency shall
18 also electronically transmit a copy of the regulatory impact
19 statement to the committee before the public hearing and the agency
20 shall make copies available to the public at the public hearing.
21 The agency shall publish the regulatory impact statement on its
22 website at least 10 days before the date of the public hearing.

23 (5) The committee shall electronically transmit to the senate
24 fiscal agency and the house fiscal agency a copy of each rule and
25 regulatory impact statement filed with the committee, as well as a
26 copy of the agenda identifying the proposed rules to be considered
27 by the committee. The senate fiscal agency and the house fiscal

1 agency shall analyze each proposed rule for possible fiscal
2 implications that, if the rule were adopted, would result in
3 additional appropriations in the current fiscal year or commit the
4 legislature to an appropriation in a future fiscal year. The senate
5 fiscal agency and the house fiscal agency shall electronically
6 report their findings to the senate and house appropriations
7 committees and to the committee before the date of consideration of
8 the proposed rule by the committee.

9 (6) Subsections (2), (3), and (4) do not apply to a rule that
10 is promulgated under section 33, 44, or 48.