SENATE BILL No. 271

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March 17, 2011, Introduced by Senators BRANDENBURG, GREEN, NOFS, MARLEAU, EMMONS, BOOHER, KAHN and SCHUITMAKER and referred to the Committee on Economic Development.

A bill to amend 1969 PA 306, entitled

"Administrative procedures act of 1969,"

by amending section 45 (MCL 24.245), as amended by 2004 PA 491.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 45. (1) Except as otherwise provided for in this subsection, the agency shall **ELECTRONICALLY** submit ~~the~~ **A** proposed rule to the legislative service bureau for its formal certification. ~~The submission to the legislative service bureau for formal certification shall be in the form of electronic transmission.~~ If requested by the legislative service bureau, the **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES** shall also transmit up to 4 paper copies of the proposed rule. The legislative service bureau shall promptly issue a certificate of approval indicating ~~a determination that a~~ **WHETHER THE** proposed

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rule is proper as to all matters of form, classification, and arrangement. If the legislative service bureau fails to issue a certificate of approval within 21 calendar days after receipt of the submission for formal certification, the **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES** may issue a certificate of approval. If the ~~submission to the~~ legislative service bureau ~~is returned by the legislative service bureau~~ **RETURNS THE SUBMISSION** to the agency before the expiration of the 21-calendar-day time period, the 21-calendar-day time period is tolled until the rule is resubmitted by the agency. The **LEGISLATIVE SERVICE BUREAU SHALL HAVE THE** remainder of the 21-calendar-day time period or 6 calendar days, whichever is longer, ~~shall be available for consideration by the legislative service bureau for~~ **TO CONSIDER THE** formal certification of the rule. The **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES** may approve a proposed rule if it considers the proposed rule to be legal **AND APPROPRIATE.**

(2) Except as provided in subsection (6), 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 a copy of the **REQUEST FOR RULE-MAKING AND THE** regulatory impact statement required under subsection (3). In the report, the agency shall describe any changes in the proposed rules that were made by the agency after the public hearing. The **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES** shall transmit by notice of transmittal to the

committee copies of the rule, the agency reports **CONTAINING THE REQUEST FOR RULE-MAKING**, a copy of the regulatory impact statement, and certificates of approval from the legislative service bureau and the **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES**. The **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES** shall also electronically submit a copy of the rule, any agency reports required under this subsection, any regulatory impact statements required under subsection (3), and any certificates of approval required under subsection (1) to the committee. The agency shall electronically transmit to the committee the records 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).

(3) Except ~~for a rule promulgated under sections 33, 44, and 48~~ **AS PROVIDED IN SUBSECTION (6)**, ~~the~~ **AN** agency shall prepare and include with ~~the~~ **A** notice of transmittal **UNDER SUBSECTION (2) THE REQUEST FOR RULE-MAKING AND THE RESPONSE FROM THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES, A SMALL BUSINESS IMPACT STATEMENT PREPARED UNDER SECTION 40(1), AND** a regulatory impact statement**.** ~~containing~~ **THE REGULATORY IMPACT STATEMENT SHALL CONTAIN** 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) A COMPARISON OF THE PROPOSED RULE TO STANDARDS IN OTHER STATES IN THE GREAT LAKES REGION AND A STATEMENT OF WHETHER THE RULE EXCEEDS STANDARDS IN THOSE STATES.

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

(D) ~~(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.

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

(F) ~~(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.

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

(H) ~~(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.

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

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

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

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

(M) ~~(*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.

(N) ~~(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.

(O) ~~(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.

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

(Q) ~~(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.

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

(S) ~~(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.

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

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

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

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

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

(Y) ~~(x)~~ An identification of the sources the agency relied upon in compiling the regulatory impact statement**, INCLUDING THE METHODOLOGY UTILIZED IN DETERMINING THE EXISTENCE AND EXTENT OF THE IMPACT OF A PROPOSED RULE AND A COST-BENEFIT ANALYSIS OF THE PROPOSED RULE.**

(Z) A DETAILED RECITATION OF THE EFFORTS OF THE AGENCY TO COMPLY WITH THE MANDATE TO REDUCE THE DISPROPORTIONATE IMPACT OF THE RULE UPON SMALL BUSINESSES AS DESCRIBED IN SECTION 40(1)(A) TO (D).

(AA) ~~(y)~~ Any other information required by the **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES**.

(4) The agency shall electronically transmit the regulatory impact statement required under subsection (3) to the **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES** 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 reviewed and approved by the **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES**. The agency shall also electronically 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. **THE AGENCY SHALL PUBLISH THE REGULATORY IMPACT STATEMENT ON ITS WEBSITE AT LEAST 10 DAYS BEFORE THE DATE OF THE PUBLIC HEARING.**

(5) The committee shall electronically transmit to the senate

fiscal agency and the house fiscal agency 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 that, if the rule were 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 electronically report their findings to the senate and house appropriations committees and to the committee before the date of consideration of the proposed rule by the committee.

(6) Subsections (2), (3), and (4) do not apply to a rule that is promulgated under ~~sections~~ **SECTION** 33, 44, ~~and~~ **OR** 48.