

# SENATE BILL No. 274

March 17, 2011, Introduced by Senators PAPPAGEORGE, KOWALL, NOFS, MARLEAU, CASWELL, COLBECK, BOOHER, PROOS, 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 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:

1       Sec. 35. (1) The joint committee on administrative rules is  
2       created and consists of 5 members of the senate and 5 members of  
3       the house of representatives appointed in the same manner as  
4       standing committees are appointed for terms of 2 years. Of the 5  
5       members in each house, 3 shall be from the majority party and 2  
6       shall be from the minority party. The chairperson of the committee

1 shall alternate between houses each year. Members of the committee  
 2 shall serve without compensation but shall be reimbursed for  
 3 expenses incurred in the business of the committee. The expenses of  
 4 the members of the senate shall be paid from appropriations to the  
 5 senate and the expenses of the members of the house of  
 6 representatives shall be paid from appropriations to the house of  
 7 representatives. The committee may meet during a session of the  
 8 legislature and during an interim between sessions. The committee  
 9 may hold a hearing on a rule transmitted to the committee, **ANY RULE**  
 10 **PREVIOUSLY FILED WITH THE SECRETARY OF STATE, OR ANY OTHER MATTER**  
 11 **THE COMMITTEE CONSIDERS APPROPRIATE.** Action by the committee,  
 12 including action taken under section 52, shall be by concurring  
 13 majorities of the members from each house. The committee shall  
 14 report its activities and recommendations to the legislature at  
 15 each regular session.

16 (2) The committee may hire staff to assist the committee under  
 17 this act. However, the supervision of staff, budgeting,  
 18 procurement, and related functions of the committee shall be  
 19 performed by the council administrator under section 104a of the  
 20 legislative council act, ~~Act No. 268 of the Public Acts of 1986,~~  
 21 ~~being section 4.1104a of the Michigan Compiled Laws 1986 PA 268,~~  
 22 **MCL 4.1104A.**

23 Sec. 45a. (1) Except as otherwise provided ~~for~~ in subsections  
 24 (7) and ~~(8)~~ **TO (9)**, after ~~receipt by the committee of~~ **HAS RECEIVED**  
 25 the notice of transmittal specified in section 45(2), the committee  
 26 has 15 session days in which to consider the rule and to object to  
 27 the rule by filing a notice of objection approved by a concurrent

1 majority of the committee members or the committee may, by  
2 concurrent majority, waive the remaining session days. If the  
3 committee waives the remaining session days, the clerk of the  
4 committee shall promptly notify the **STATE** office of ~~regulatory~~  
5 ~~reform~~**ADMINISTRATIVE HEARINGS AND RULES** of the waiver by  
6 electronic transmission. ~~A~~**THE COMMITTEE MAY ONLY APPROVE A** notice  
7 of objection ~~may only be approved by the committee~~ if the committee  
8 affirmatively determines by a concurrent majority that 1 or more of  
9 the following conditions exist:

10 (a) The agency lacks statutory authority for the rule.

11 (b) The agency is exceeding the statutory scope of its rule-  
12 making authority.

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

15 (d) The rule ~~is in conflict~~**CONFLICTS** with state law.

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

18 (f) The rule is arbitrary or capricious.

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

21 (2) If the committee does not file a notice of objection  
22 within the time period prescribed in subsection (1) or if the  
23 committee waives the remaining session days by concurrent majority,  
24 the **STATE** office of ~~regulatory reform~~**ADMINISTRATIVE HEARINGS AND**  
25 **RULES** may immediately file the rule, with the certificate of  
26 approval required under section 45(1), with the secretary of state.  
27 The rule ~~shall take~~**TAKES** effect immediately upon its filing **WITH**

1 **THE SECRETARY OF STATE** unless a later date is indicated within the  
2 rule.

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

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

10 (b) A repeal of the statutory provision under which the rule  
11 was authorized.

12 (c) A bill staying the effective date of the proposed rule for  
13 up to 1 year.

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

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

20 (b) The date of the rescission of the issuance of the notice  
21 of objection, approved by a concurrent majority of the committee  
22 members. The committee may meet to rescind the issuance of the  
23 notice of objection under this subdivision. If the committee  
24 rescinds the issuance of a notice of objection under this  
25 subdivision, the clerk of the committee shall promptly notify the  
26 **STATE** office of ~~regulatory reform~~**ADMINISTRATIVE HEARINGS AND RULES**  
27 by electronic transmission of the rescission.

1           (5) If the legislation introduced ~~pursuant to~~ **UNDER** subsection  
2       (3) is defeated in either house and if the vote by which the  
3       legislation failed to pass is not reconsidered in compliance with  
4       the rules of that house, or if legislation introduced ~~pursuant to~~  
5       **UNDER** subsection (3) is not adopted by both houses within the time  
6       period specified in subsection (4), the **STATE** office of ~~regulatory~~  
7       ~~reform~~ **ADMINISTRATIVE HEARINGS AND RULES** may file the rule with the  
8       secretary of state. The rule ~~shall take~~ **TAKES** effect immediately  
9       upon **ITS** filing with the secretary of state unless a later date is  
10      specified within the rule.

11          (6) If the legislation introduced ~~pursuant to~~ **UNDER** subsection  
12      (3) is enacted by the legislature and presented to the governor  
13      within the 15-session-day period, the ~~rules do~~ **RULE DOES** not ~~become~~  
14      ~~effective~~ **TAKE EFFECT** unless the legislation is vetoed by the  
15      governor as provided by law. If the governor vetoes the  
16      legislation, the **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE**  
17      **HEARINGS AND RULES** may file the ~~rules~~ **RULE WITH THE SECRETARY OF**  
18      **STATE** immediately. The rule ~~shall take~~ **TAKES** effect 7 days after  
19      the date of its filing **WITH THE SECRETARY OF STATE** unless a later  
20      effective date is indicated within the rule.

21          (7) An agency may withdraw a proposed rule under the following  
22      conditions:

23          (a) With permission of the committee chair and alternate  
24      chair, the agency may withdraw the rule and resubmit it. If  
25      permission to withdraw is granted, the 15-session-day time period  
26      described in subsection (1) is tolled until the rule is  
27      resubmitted, except that the committee shall have at least 6

1 session days after resubmission to consider the resubmitted rule.

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

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

9 (9) **AN AGENCY SHALL WITHDRAW ANY RULE PENDING BEFORE THE**  
10 **COMMITTEE AT THE FINAL ADJOURNMENT OF A REGULAR SESSION HELD IN AN**  
11 **EVEN NUMBERED YEAR AND RESUBMIT THAT RULE. A NEW AND UNTOLLED 15-**  
12 **SESSION-DAY TIME PERIOD DESCRIBED IN SUBSECTION (1) SHALL BEGIN**  
13 **UPON RESUBMISSION OF THE RULE TO THE COMMITTEE FOR CONSIDERATION.**

14 (10) ~~(9)~~ As used in this section only, "session day" means  
15 ~~each~~ **A** day in which both the house of representatives and the  
16 senate convene in session **AND A QUORUM IS RECORDED.**