

SENATE BILL No. 496

September 17, 2013, Introduced by Senators JANSEN, PAPPAGEORGE, GREEN, PROOS, COLBECK, MARLEAU and EMMONS and referred to the Committee on Local Government and Elections.

A bill to amend 1969 PA 306, entitled "Administrative procedures act of 1969," by amending sections 3, 5, 7a, 40, 44, 45, 45a, and 45b (MCL 24.203, 24.205, 24.207a, 24.240, 24.244, 24.245, 24.245a, and 24.245b), section 3 as amended by 2011 PA 239, section 5 as amended by 2006 PA 460, section 7a as amended by 1999 PA 262, section 40 as amended by 2011 PA 243, section 44 as amended by 2004 PA 23, section 45 as amended by 2011 PA 242, section 45a as amended by 2011 PA 245, and section 45b as added by 2011 PA 247, 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 PAUL HARVEY TRANSPARENCY ACT.

3 (2) ~~(1)~~—"Adoption of a rule" means that step in the processing

1 of a rule consisting of the formal action of an agency establishing
2 a ~~THE~~ rule before its promulgation.

3 (3) ~~(2)~~—"Agency" means a state department, bureau, division,
4 section, board, commission, trustee, authority, or officer, created
5 by the constitution, statute, or agency action. Agency does not
6 include an agency in the legislative or judicial branch of state
7 government, the governor, an agency having direct governing control
8 over an institution of higher education, the state civil service
9 commission, or an association of insurers created under the
10 insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, or
11 other association or facility formed under that act as a nonprofit
12 organization of insurer members.

13 (4) ~~(3)~~—"Contested case" means a proceeding, including rate-
14 making, price-fixing, and licensing, in which a determination of
15 the legal rights, duties, or privileges of a named party is
16 required by law to be made by an agency after an opportunity for an
17 evidentiary hearing. When a hearing is held before an agency and an
18 appeal from its decision is taken to another agency, the hearing
19 and the appeal are considered a continuous proceeding as though
20 before a single agency.

21 (5) ~~(4)~~—"Committee" means the joint committee on
22 administrative rules.

23 (6) ~~(5)~~—"Court" means the circuit court.

24 (7) ~~(6)~~—"Decision record" means, in regard to a request for
25 rule-making where an agency receives recommendations or comments by
26 an advisory committee or other advisory entity created by statute,
27 both of the following:

1 (a) The minutes of all meetings related to the request for
2 rule-making.

3 (b) The votes of members.

4 (8) **"EXISTING LAW" MEANS THAT TERM AS DEFINED IN SECTION 3 OF**
5 **THE PAUL HARVEY TRANSPARENCY ACT.**

6 (9) ~~(7)~~—"Guideline" means an agency statement or declaration
7 of policy that the agency intends to follow, that does not have the
8 force or effect of law, and that binds the agency but does not bind
9 any other person.

10 Sec. 5. (1) "License" includes the whole or part of an agency
11 permit, certificate, approval, registration, charter, or similar
12 form of permission required by law, but does not include a license
13 required solely for revenue purposes, or a license or registration
14 issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to
15 257.923.

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

19 (3) **"LOCAL UNIT OF GOVERNMENT" MEANS THAT TERM AS DEFINED IN**
20 **SECTION 3 OF THE PAUL HARVEY TRANSPARENCY ACT.**

21 (4) ~~(3)~~—"Michigan register" means the publication described in
22 section 8.

23 (5) **"NEW ACTIVITY OR SERVICE OR INCREASE IN THE LEVEL OF AN**
24 **EXISTING ACTIVITY OR SERVICE" MEANS THAT TERM AS DEFINED IN SECTION**
25 **3 OF THE PAUL HARVEY TRANSPARENCY ACT.**

26 (6) ~~(4)~~—"Notice" means a written or electronic record that
27 informs a person of past or future action of the person generating

1 the record.

2 (7) ~~(5)~~—"Notice of objection" means the record adopted by the
3 committee that indicates the committee's formal objection to a
4 proposed rule.

5 (8) ~~(6)~~—"Party" means a person or agency named, admitted, or
6 properly seeking and entitled of right to be admitted, as a party
7 in a contested case. In a contested case regarding an application
8 for a license, party includes the applicant for that license.

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

15 (10) ~~(8)~~—"Processing of a rule" means the action required or
16 authorized by this act regarding a rule that is to be promulgated,
17 including the rule's adoption ~~—~~and ending with the rule's
18 promulgation.

19 (11) ~~(9)~~—"Promulgation of a rule" means that step in the
20 processing of a rule consisting of the filing of ~~a~~**THE** rule with
21 the secretary of state.

22 (12) ~~(10)~~—"Record" means information that is inscribed on a
23 paper or electronic medium.

24 Sec. 7a. (1) **"SERVICE" MEANS THAT TERM AS DEFINED IN SECTION 4**
25 **OF THE PAUL HARVEY TRANSPARENCY ACT.**

26 (2) "Small business" means a business concern incorporated or
27 doing business in this state, including the affiliates of the

1 business concern, ~~which~~ **THAT** is independently owned and operated
2 and ~~which~~ **THAT** employs fewer than 250 full-time employees or ~~which~~
3 **THAT** has gross annual sales of less than \$6,000,000.00.

4 (3) "STATE REQUIREMENT" MEANS THAT TERM AS DEFINED IN SECTION
5 4 OF THE PAUL HARVEY TRANSPARENCY ACT.

6 SEC. 9. TO COMPLY WITH SECTION 29 OF ARTICLE IX OF THE STATE
7 CONSTITUTION OF 1963 AND NOTWITHSTANDING ANYTHING IN THIS ACT OR
8 OTHER LAW TO THE CONTRARY, THE FOLLOWING APPLY:

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

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

26 Sec. 40. (1) ~~When~~ **IF** an agency proposes to ~~adopt~~ **THE ADOPTION**
27 **OF** a rule that will apply to a small business and the rule will

1 have a disproportionate impact on small businesses because of the
2 size of those businesses, the agency shall consider exempting small
3 businesses and, if not exempted, the agency ~~proposing to adopt the~~
4 ~~rule~~ shall reduce the economic impact of the rule on small
5 businesses by doing all of the following ~~when~~ **IF** it is lawful and
6 feasible in meeting the objectives of the act authorizing the
7 promulgation of the rule:

8 (a) Identify and estimate the number of small businesses
9 affected by the proposed rule and its probable effect on small
10 businesses.

11 (b) Establish differing compliance or reporting requirements
12 or timetables for small businesses under the rule after projecting
13 the required reporting, record-keeping, and other administrative
14 costs.

15 (c) Consolidate, simplify, or eliminate the compliance and
16 reporting requirements for small businesses under the rule and
17 identify the skills necessary to comply with the reporting
18 requirements.

19 (d) Establish performance standards to replace design or
20 operational standards required in the proposed rule.

21 (2) The **AGENCY SHALL SPECIFICALLY ADDRESS THE** factors
22 described in subsection (1) (a) to (d) ~~shall be specifically~~
23 ~~addressed in the~~ **A** small business impact statement.

24 (3) In reducing the disproportionate economic impact on small
25 business of a rule as provided in subsection (1), an agency shall
26 use the following classifications of small business:

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

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

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

3 (4) For purposes of subsection (3), an agency may include a
4 small business with a greater number of full-time employees in a
5 classification that applies to a business with fewer full-time
6 employees.

7 (5) This section and section ~~45(3)~~**45(4)** do not apply to a
8 rule that is required by federal law and that an agency promulgates
9 without imposing standards more stringent than those required by
10 the federal law.

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

17 (2) Sections 41 and 42 do not apply to a rule that is
18 promulgated under the Michigan occupational safety and health act,
19 1974 PA 154, MCL 408.1001 to 408.1094, that is substantially
20 similar to an existing federal standard that has been adopted or
21 promulgated under the occupational safety and health act of 1970,
22 Public Law 91-596, 84 Stat. 1590. However, notice of the proposed
23 rule shall be published in the Michigan register at least 35 days
24 before ~~the submission of the rule to~~**IS FILED WITH** the secretary of
25 state ~~pursuant to~~**UNDER** section 46(1). A reasonable period, not to
26 exceed 21 days, shall be provided for the submission of written or
27 electronic comments and views following publication in the Michigan

1 register.

2 (3) ~~For purposes of subsection (2), AS USED IN THIS SECTION,~~
3 "substantially similar" means identical, with the exception of
4 style or format differences needed to conform to this or other
5 state laws. ~~, as determined by the office of regulatory reform~~
6 ~~pursuant to section 45(1).~~

7 Sec. 45. (1) Except as otherwise provided ~~for~~ in this
8 subsection, the agency shall electronically submit a proposed rule
9 to the legislative service bureau for its formal certification. If
10 requested by the legislative service bureau, the office of
11 regulatory reinvention shall also transmit up to 4 paper copies of
12 the proposed rule. The legislative service bureau shall promptly
13 issue a certificate of approval indicating whether the proposed
14 rule is proper as to all matters of form, classification, and
15 arrangement. If the legislative service bureau fails to issue a
16 certificate of approval within 21 calendar days after receipt of
17 the submission for formal certification, the office of regulatory
18 reinvention may issue a certificate of approval. If the legislative
19 service bureau returns the submission to the agency before the
20 expiration of the 21-calendar-day ~~time~~ period, the 21-calendar-day
21 ~~time~~ period is tolled until the rule is resubmitted by the agency.
22 The legislative service bureau shall have the remainder of the 21-
23 calendar-day ~~time~~ period or 6 calendar days, whichever is longer,
24 to consider the formal certification of the rule. The office of
25 regulatory reinvention may approve a proposed rule if it considers
26 the proposed rule to be legal and appropriate.

27 (2) **THE OFFICE OF REGULATORY REINVENTION SHALL ISSUE A REPORT**

1 DESCRIBING WHETHER A PROPOSED RULE COMPLIES WITH SECTION 29 OF
2 ARTICLE IX OF THE STATE CONSTITUTION OF 1963 AND THE PAUL HARVEY
3 TRANSPARENCY ACT. AS PART OF THE REPORT, THE OFFICE OF REGULATORY
4 REINVENTION SHALL SPECIFICALLY CERTIFY WHETHER THE PROPOSED RULE
5 REQUIRES LOCAL UNITS OF GOVERNMENT TO PROVIDE EITHER NEW ACTIVITIES
6 OR SERVICES OR AN INCREASE IN THE LEVEL OF AN ACTIVITY OR SERVICE
7 BEYOND THAT REQUIRED BY EXISTING LAW. IF THE CERTIFICATION
8 INDICATES THAT THE PROPOSED RULE REQUIRES LOCAL UNITS OF GOVERNMENT
9 TO PROVIDE EITHER NEW ACTIVITIES OR SERVICES OR AN INCREASE IN THE
10 LEVEL OF ANY ACTIVITY OR SERVICE BEYOND THAT REQUIRED BY EXISTING
11 LAW, THE REPORT SHALL DESCRIBE WHETHER A FISCAL NOTE HAS BEEN
12 PREPARED REGARDING THE NEW ACTIVITY OR SERVICE OR INCREASE IN THE
13 LEVEL OF ACTIVITY OR SERVICE BEYOND THAT REQUIRED BY EXISTING LAW
14 AND WHETHER AN APPROPRIATION COMPENSATING THE AFFECTED LOCAL UNITS
15 OF GOVERNMENT FOR THE ACTIVITY OR SERVICE HAS BEEN MADE BY THE
16 LEGISLATURE AND ENACTED INTO LAW. IF THE OFFICE OF REGULATORY
17 REINVENTION DETERMINES THAT THE PROPOSED RULE REQUIRES A NEW
18 ACTIVITY OR SERVICE OR AN INCREASE IN THE LEVEL OF AN EXISTING
19 ACTIVITY OR SERVICE, THE OFFICE OF REGULATORY REINVENTION SHALL SO
20 INFORM THE LOCAL GOVERNMENT MANDATE PANEL DESCRIBED IN THE PAUL
21 HARVEY TRANSPARENCY ACT AND REQUIRE THE PANEL TO PREPARE AND CONVEY
22 A FISCAL NOTE AS PROVIDED UNDER THE PAUL HARVEY TRANSPARENCY ACT.
23 IF THE CERTIFICATION INDICATES NONCOMPLIANCE WITH SECTION 29 OF
24 ARTICLE IX OF THE STATE CONSTITUTION OF 1963 OR THE PAUL HARVEY
25 TRANSPARENCY ACT, THE OFFICE OF REGULATORY REINVENTION SHALL NOT
26 TRANSMIT THE PROPOSED RULE TO THE COMMITTEE.

27 (3) ~~(2)~~—Except as provided in subsection ~~(6)~~, (7), after

1 notice is given as provided in this act and before the **ADOPTION OF**
2 **A RULE BY AN** agency, ~~proposing the rule has formally adopted the~~
3 ~~rule,~~ the agency shall prepare an agency report containing a
4 synopsis of the comments contained in the public hearing record,
5 ~~and~~ a copy of the request for rule-making, and the regulatory
6 impact statement required under subsection ~~(3)~~. **(4)**. In the report,
7 the agency shall describe any changes in the proposed rules that
8 were made by the agency after the public hearing. The office of
9 regulatory reinvention shall transmit by notice of transmittal to
10 the committee copies of the rule, the agency reports containing the
11 request for rule-making, a copy of the regulatory impact statement,
12 and certificates of approval from the legislative service bureau
13 and the office of regulatory reinvention. The office of regulatory
14 reinvention shall also electronically submit a copy of the rule,
15 any agency reports required under this subsection, any regulatory
16 impact statements required under subsection ~~(3)~~, ~~and~~ **(4)**, any
17 certificates of approval required under subsection (1), **AND THE**
18 **REPORT REQUIRED UNDER SUBSECTION (2)** to the committee. The agency
19 shall electronically transmit to the committee the records
20 described in this subsection within 1 year after the date of the
21 last public hearing on the proposed rule unless the proposed rule
22 is a resubmission under section 45a(7).

23 **(4)** ~~(3)~~—Except as provided in subsection ~~(6)~~, ~~(7)~~, an agency
24 shall prepare and include with a notice of transmittal under
25 subsection ~~(2)~~ **(3)** the request for rule-making and the response
26 from the office of regulatory reinvention, a small business impact
27 statement prepared under section ~~40(1)~~, **40(2)**, and a regulatory

1 impact statement. The regulatory impact statement shall contain all
2 of the following information:

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

6 (b) If requested by the office of regulatory reinvention or
7 the committee, a comparison of the proposed rule to standards in
8 similarly situated states, based on geographic location,
9 topography, natural resources, commonalities, or economic
10 similarities.

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

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

16 (e) An estimate of the change in the frequency of the targeted
17 behavior expected from the rule.

18 (f) An identification of the businesses, groups, ~~or~~
19 individuals, ~~who~~ **AND LOCAL UNITS OF GOVERNMENT THAT** will be
20 directly affected by, bear the cost of, or directly benefit from
21 the rule.

22 (g) An identification of any reasonable alternatives to
23 regulation ~~pursuant to~~ **UNDER** the proposed rule that would achieve
24 the same or similar goals.

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

1 (i) An estimate of the cost of rule imposition on the agency
2 promulgating the rule.

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

5 (k) An estimate of the actual statewide compliance costs of
6 the proposed rule on businesses and other groups.

7 **(l) AN ESTIMATE OF THE ACTUAL STATEWIDE COMPLIANCE COSTS OF THE**
8 **PROPOSED RULE ON LOCAL UNITS OF GOVERNMENT.**

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

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

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

17 **(P)** ~~(o)~~—An identification of the nature and estimated cost of
18 any legal consulting and accounting services that small businesses
19 would incur in complying with the proposed rule.

20 **(Q)** ~~(p)~~—An estimate of the ability of small businesses to
21 absorb the costs estimated under subdivisions ~~(m) to (o)~~ **(N) TO (P)**
22 without suffering economic harm and without adversely affecting
23 competition in the marketplace.

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

27 **(S)** ~~(r)~~—An identification of the impact on the public interest

1 of exempting or setting lesser standards of compliance for small
2 businesses.

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

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

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

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

13 (X) ~~(w)~~—An estimate of any increase in revenues to state or
14 local ~~governmental~~ units **OF GOVERNMENT** as a result of the rule **AND**
15 **FACTS DEMONSTRATING COMPLIANCE WITH SECTION 29 OF ARTICLE IX OF THE**
16 **STATE CONSTITUTION OF 1963 AND IMPLEMENTING LEGISLATION.**

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

19 (Z) ~~(y)~~—An identification of the sources the agency relied
20 ~~upon~~ **ON** in compiling the regulatory impact statement, including the
21 methodology ~~utilized~~ **USED** in determining the existence and extent
22 of the impact of a proposed rule and a cost-benefit analysis of the
23 proposed rule.

24 (AA) ~~(z)~~—A detailed recitation of the efforts of the agency to
25 comply with the mandate to reduce the disproportionate impact of
26 the rule ~~upon~~ **ON** small businesses as described in section 40(1)(a)
27 to (d).

1 **(BB)** ~~(aa)~~ Any other information required by the office of
2 regulatory reinvention.

3 **(5)** ~~(4)~~ The ~~AN~~ agency shall electronically transmit the
4 regulatory impact statement required under subsection ~~(3)~~ **(4)** to
5 the office of regulatory reinvention at least 28 days before the
6 public hearing ~~required pursuant to~~ **UNDER** section 42. Before the
7 public hearing can be held, the regulatory impact statement must be
8 reviewed and approved by the office of regulatory reinvention. The
9 agency shall also electronically transmit a copy of the regulatory
10 impact statement to the committee before the public hearing and the
11 agency shall make copies available to the public at the public
12 hearing. The agency shall publish the regulatory impact statement
13 on its website at least 10 days before the date of the public
14 hearing.

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

1 (7) ~~(6)~~ Subsections ~~(2)~~, ~~(3)~~, and ~~(4)~~, **AND (5)** do not apply to
2 a rule that is promulgated under section 33, 44, or 48.

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

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

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

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

5 (d) The rule conflicts with state law.

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

8 (f) The rule is arbitrary or capricious.

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

11 (2) If the committee does not file a notice of objection
12 within the time ~~period~~ prescribed in subsection (1) or if the
13 committee waives the remaining session days by concurrent majority,
14 the office of regulatory reinvention may immediately file the rule,
15 with the certificate of approval required under section 45(1) **AND**
16 **THE REPORT REQUIRED UNDER SECTION 45(2)**, with the secretary of
17 state. The rule takes effect immediately ~~upon its filing~~**ON BEING**
18 **FILED** with the secretary of state unless a later date is indicated
19 ~~within~~**IN** the rule.

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

26 (a) A rescission of ~~a~~**THE** rule ~~upon~~**ON** its effective date.

27 (b) A repeal of the statutory provision under which the rule

1 was authorized.

2 (c) A ~~bill staying~~ **STAY OF** the effective date of the proposed
3 rule for up to 1 year.

4 (4) ~~The~~ **A** notice of objection filed under subsection (3) stays
5 the ability of the office of regulatory reinvention to file the
6 rule with the secretary of state until the earlier of the
7 following:

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

10 (b) The date of the rescission of the issuance of the notice
11 of objection, approved by a concurrent majority of the committee
12 members. The committee may meet to rescind the issuance of the
13 notice of objection under this subdivision. If the committee
14 rescinds the issuance of a notice of objection under this
15 subdivision, the clerk of the committee shall promptly notify the
16 office of regulatory reinvention by electronic transmission of the
17 rescission.

18 (5) If the legislation introduced under subsection (3) is
19 defeated in either house and if the vote by which the legislation
20 failed to pass is not reconsidered in compliance with the rules of
21 that house, or if legislation introduced under subsection (3) is
22 not adopted by both houses within the time ~~period~~ specified in
23 subsection (4), the office of regulatory reinvention may file the
24 rule with the secretary of state. The rule takes effect immediately
25 ~~upon its filing~~ **ON BEING FILED** with the secretary of state unless a
26 later date is specified ~~within~~ **IN** the rule.

27 (6) If the legislation introduced under subsection (3) is

1 enacted by the legislature and presented to the governor within the
2 15-session-day period, the rule does not take effect unless the
3 legislation is vetoed by the governor as provided by law. If the
4 governor vetoes the legislation, the office of regulatory
5 reinvention may file the rule with the secretary of state
6 immediately. The rule takes effect 7 days after the date of its
7 filing with the secretary of state unless a later effective date is
8 indicated ~~within~~**IN** the rule.

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

11 (a) With permission of the committee chair and alternate
12 chair, the agency may withdraw the rule and resubmit it. If
13 permission to withdraw is granted, the 15-session-day ~~time~~ period
14 described in subsection (1) is tolled until the rule is
15 resubmitted. ~~, except that~~**AFTER RESUBMISSION**, the committee ~~shall~~
16 ~~have at least~~**HAS THE REMAINDER OF THE 15 SESSION DAYS OR 6 session**
17 ~~days, after resubmission~~**WHICHEVER IS LONGER**, to consider the
18 resubmitted rule.

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

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

27 (9) An agency shall withdraw any rule pending before the

1 committee at the final adjournment of a regular session held in an
2 even-numbered year and resubmit ~~that~~**THE** rule. A new and untolled
3 15-session-day ~~time~~ period described in subsection (1) ~~shall begin~~
4 ~~upon~~**BEGINS ON** resubmission of the rule to the committee for
5 consideration.

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

9 Sec. 45b. (1) The office of regulatory reinvention shall post
10 the following on its website within 2 business days after
11 transmittal ~~pursuant to~~**UNDER** section 45:

12 (a) The regulatory impact statement required under section
13 ~~45(3).~~**45(4)**.

14 (b) Instructions on any existing administrative remedies or
15 appeals available to the public.

16 (c) Instructions regarding the method of complying with the
17 rules, if available.

18 (d) Any rules filed with the secretary of state and the
19 effective date of those rules.

20 (2) The office of regulatory reinvention shall facilitate
21 linking the information posted under subsection (1) to the
22 department or agency website.

23 Enacting section 1. This amendatory act does not take effect
24 unless Senate Bill No. 495

25 of the 97th Legislature is enacted into law.