

**HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 652**

A bill to amend 1969 PA 306, entitled "Administrative procedures act of 1969," by amending sections 33, 39a, 40, 41, 42, 43, 44, 45, and 47 (MCL 24.233, 24.239a, 24.240, 24.241, 24.242, 24.243, 24.244, 24.245, and 24.247), sections 33 and 47 as amended and section 39a as added by 1999 PA 262, section 40 as amended by 2011 PA 243, sections 41 and 42 as amended by 2004 PA 491, section 43 as amended by 1989 PA 288, and sections 44 and 45 as amended by 2016 PA 513, and by adding sections 65 and 66.

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

1           Sec. 33. (1) An agency shall promulgate rules describing its  
2 organization and stating the general course and method of its  
3 operations. ~~and THE AGENCY~~ may include therein **IN THE RULES** forms  
4 with instructions. Sections 41, 42, 45, ~~and 45a~~, **AND 66** do not  
5 apply to ~~such~~ **PROMULGATION OF THE** rules.

1 (2) An agency shall promulgate rules prescribing its  
 2 procedures available to the public and the methods by which the  
 3 public may obtain information and submit requests.

4 (3) An agency may promulgate rules ~~not inconsistent~~  
 5 **PRESCRIBING PROCEDURES FOR CONTESTED CASES. THE RULES MUST BE**  
 6 **CONSISTENT** with this act ~~or~~**AND** other applicable statutes.  
 7 ~~prescribing procedures for contested cases.~~

8 Sec. 39a. (1) ~~An~~**SUBJECT TO SECTION 66, AN** agency may publish  
 9 the notice of hearing under section 42 only if the office ~~of~~  
 10 ~~regulatory reform~~ has received draft proposed rules and has given  
 11 the agency approval to proceed with a public hearing.

12 (2) After a grant of approval to hold a public hearing by the  
 13 office ~~of regulatory reform~~ under subsection (1), the office ~~of~~  
 14 ~~regulatory reform~~ shall immediately provide a copy of the proposed  
 15 rules to the committee. The committee shall provide a copy of the  
 16 proposed rules, not later than the next business day after receipt  
 17 of the notice from the office, ~~of regulatory reform,~~ to members of  
 18 the committee and to members of the standing committees of the  
 19 senate and house of representatives that deal with the subject  
 20 matter of the proposed rule.

21 Sec. 40. (1) ~~When~~**IF** an agency proposes to adopt a rule that  
 22 will apply to a small business and the rule will have a  
 23 disproportionate impact on small businesses because of the size of  
 24 those businesses, the agency shall consider exempting small  
 25 businesses and, if not exempted, the agency ~~proposing to adopt the~~  
 26 ~~rule~~ shall reduce the economic impact of the rule on small  
 27 businesses by doing all of the following ~~when~~**IF** it is lawful and

1 feasible in meeting the objectives of the act authorizing the  
2 promulgation of the rule:

3 (a) Identify and estimate the number of small businesses  
4 affected by the proposed rule and its probable effect on small  
5 businesses.

6 (b) Establish differing compliance or reporting requirements  
7 or timetables for small businesses under the rule after projecting  
8 the required reporting, record-keeping, and other administrative  
9 costs.

10 (c) Consolidate, simplify, or eliminate the compliance and  
11 reporting requirements for small businesses under the rule and  
12 identify the skills necessary to comply with the reporting  
13 requirements.

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

16 (2) The **AGENCY PROPOSING THE RULE SHALL SPECIFICALLY ADDRESS**  
17 **THE** factors described in subsection (1) (a) to (d) ~~shall be~~  
18 ~~specifically addressed in the~~ **A** small business impact statement.

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

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

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

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

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

1 employees.

2 (5) This section and section 45(3) do not apply to ~~a~~**EITHER OF**  
3 **THE FOLLOWING:**

4 (A) A rule that is required by federal law and that an agency  
5 promulgates without imposing standards more stringent than those  
6 required by the federal law.

7 (B) **A RULE PROMULGATED BY THE DEPARTMENT OF ENVIRONMENTAL**  
8 **QUALITY.**

9 Sec. 41. (1) Except as provided in ~~section~~**SECTIONS 44 AND 66,**  
10 before the adoption of a rule, an agency, or the office, ~~of~~  
11 ~~regulatory reform,~~ shall give notice of a public hearing and offer  
12 a person an opportunity to present data, views, questions, and  
13 arguments. The notice ~~shall~~**MUST** be given within the time  
14 prescribed by any applicable statute, or if none, in the manner  
15 prescribed in section 42(1).

16 (2) The notice described in subsection (1) ~~shall~~**MUST** include  
17 all of the following:

18 (a) A reference to the statutory authority under which the  
19 action is proposed.

20 (b) The time and place of the public hearing and a statement  
21 of the manner in which data, views, questions, and arguments may be  
22 submitted by a person to the agency at other times.

23 (c) A statement of the terms or substance of the proposed  
24 rule, a description of the subjects and issues involved, and the  
25 proposed effective date of the rule.

26 (3) The agency, or the office ~~of regulatory reform~~ acting on  
27 behalf of an agency, shall transmit copies of the notice **DESCRIBED**

1 **IN SUBSECTION (1)** to each person who requested the agency in  
2 writing or electronically for advance notice of proposed action  
3 that may affect the person. If requested, the notice ~~shall~~**MUST** be  
4 by mail, in writing, or electronically to the last address  
5 specified by the person.

6 (4) The public hearing ~~shall~~**MUST** comply with any applicable  
7 statute, but is not subject to the provisions governing a contested  
8 case.

9 (5) The head of the promulgating agency or 1 or more persons  
10 designated by the head of the agency who have knowledge of the  
11 subject matter of the proposed rule shall be present at the public  
12 hearing and shall participate in the discussion of the proposed  
13 rule.

14 Sec. 42. (1) Except as provided in ~~section~~**SECTIONS 44 AND 66,**  
15 at a minimum, an agency, or the office ~~of regulatory reform~~ acting  
16 on behalf of the agency, shall publish the notice of public hearing  
17 as prescribed in any applicable statute or, if none, the agency, or  
18 the office ~~of regulatory reform~~ acting on behalf of the agency,  
19 shall publish the notice not less than 10 days and not more than 60  
20 days before the date of the public hearing in at least 3 newspapers  
21 of general circulation in different parts of ~~the~~**THIS** state, 1 of  
22 which ~~shall~~**MUST** be in the Upper Peninsula.

23 (2) Additional methods that may be employed ~~by the agency, or~~  
24 ~~the office of regulatory reform acting on behalf of the agency,~~  
25 ~~depending upon the circumstances,~~**TO PROVIDE NOTICE OF THE PUBLIC**  
26 **HEARING** include publication in trade, industry, governmental, or  
27 professional publications or posting on the website of the agency

1 or the office. ~~of regulatory reform.~~

2 (3) In addition to the requirements of subsection (1) **AND**  
3 **EXCEPT AS PROVIDED IN SECTION 66**, the agency shall electronically  
4 submit a copy of the notice of public hearing to the office ~~of~~  
5 ~~regulatory reform~~ for publication in the Michigan ~~register.~~  
6 **REGISTER**. If the office ~~of regulatory reform~~ submitted the notice  
7 of public hearing on behalf of the agency, the office ~~of regulatory~~  
8 ~~reform~~ shall publish the notice of public hearing in the Michigan  
9 ~~register.~~ **REGISTER**. An agency's notice shall **MUST** be published in  
10 the Michigan ~~register~~ **REGISTER** before the public hearing and the  
11 agency shall electronically file a copy of the notice of public  
12 hearing with the office. ~~of regulatory reform.~~ Within 7 days after  
13 receipt of the notice of public hearing **AND BEFORE THE PUBLIC**  
14 **HEARING**, the office ~~of regulatory reform~~ shall do all of the  
15 following: ~~before the public hearing:~~

16 (a) Electronically transmit a copy of the notice of public  
17 hearing to the committee.

18 (b) Provide notice electronically through publicly accessible  
19 internet media.

20 (4) After the office ~~of regulatory reform~~ electronically  
21 transmits a copy of the notice of public hearing to the committee,  
22 the committee shall electronically transmit copies of the notice of  
23 public hearing, not later than the next business day after receipt  
24 of the notice from the office, ~~of regulatory reform,~~ to each member  
25 of the committee and to the members of the standing committees of  
26 the senate and house of representatives that deal with the subject  
27 matter of the proposed rule.

1 (5) After receipt of the notice of public hearing filed under  
2 subsection (3), the committee may meet to consider the proposed  
3 rule, take testimony, and provide the agency with the committee's  
4 informal response to the rule.

5 Sec. 43. (1) Except ~~in the case of~~ **FOR** an emergency rule  
6 promulgated in the manner described in section 48, a rule is not  
7 valid unless **IT IS** processed in compliance with **SECTION 66, IF**  
8 **APPLICABLE**, section 42, and ~~unless~~ in substantial compliance with  
9 section 41(2), (3), (4), and (5).

10 (2) A proceeding to contest a rule on the ground of  
11 noncompliance with the requirements of sections 41 and 42 ~~shall~~ **OR**  
12 **SECTION 66 MUST** be commenced within 2 years after the effective  
13 date of the rule.

14 Sec. 44. (1) Sections 41, ~~and~~ 42, **AND 66** do not apply to an  
15 amendment or rescission of a rule that is obsolete or superseded,  
16 or that is required to make obviously needed corrections to make  
17 the rule conform to an amended or new statute or to accomplish any  
18 other solely formal purpose, if a statement to that effect is  
19 included in the legislative service bureau certificate of approval  
20 of the rule.

21 (2) Sections 41 and 42 do not apply to a rule that is  
22 promulgated under the Michigan occupational safety and health act,  
23 1974 PA 154, MCL 408.1001 to 408.1094, that is substantially  
24 similar to an existing federal standard that has been adopted or  
25 promulgated under the occupational safety and health act of 1970,  
26 Public Law 91-596. However, notice of the proposed rule must be  
27 published in the Michigan ~~register~~ **REGISTER** at least 35 days before

1 ~~the submission of the rule to~~ **IS FILED WITH** the secretary of state  
2 under section 46(1). A reasonable period, not to exceed 21 days,  
3 must be provided for the submission of written or electronic  
4 comments and views following publication in the Michigan  
5 ~~register.~~ **REGISTER.**

6 (3) Sections 41 and 42 do not apply to a change to a proposed  
7 rule by an agency during processing of the rule if the office  
8 determines under section 45c(3) that the regulatory impact and  
9 impact on small businesses of the changed proposed rule are not  
10 more burdensome than the regulatory impact and impact on small  
11 businesses of the original proposed rule.

12 (4) 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 the  
15 office.

16 Sec. 45. (1) Except as otherwise provided in this subsection,  
17 an agency shall electronically submit a proposed rule to the  
18 legislative service bureau for its formal certification. If  
19 requested by the legislative service bureau, the office shall also  
20 transmit up to 4 paper copies of the proposed rule. The legislative  
21 service bureau shall promptly issue a certificate of approval  
22 indicating whether the proposed rule is proper as to all matters of  
23 form, classification, and arrangement. If the legislative service  
24 bureau fails to issue a certificate of approval within 21 calendar  
25 days after receipt of the submission for formal certification, the  
26 office may issue a certificate of approval. If the legislative  
27 service bureau returns the submission to the agency before the



1 expiration of the 21-calendar-day ~~time~~ period, the 21-calendar-day  
2 ~~time~~ period is tolled until the rule is resubmitted by the agency.  
3 After resubmission, the legislative service bureau has the  
4 remainder of the 21-calendar-day ~~time~~ period or 6 calendar days,  
5 whichever is longer, to consider the formal certification of the  
6 rule. The office may approve a proposed rule if it considers the  
7 proposed rule to be legal and appropriate.

8 (2) Except as provided in subsection (6), after notice is  
9 given as provided in this act and before the agency proposing the  
10 rule has formally adopted the rule, the agency shall prepare an  
11 agency report containing a synopsis of the comments contained in  
12 the public hearing record, a copy of the request for rule-making,  
13 and the regulatory impact statement required under subsection (3).  
14 In the report, the agency shall describe any changes in the  
15 proposed rules that were made by the agency after the public  
16 hearing. The office shall transmit by notice of transmittal to the  
17 committee copies of the rule, the agency reports containing the  
18 request for rule-making, a copy of the regulatory impact statement,  
19 and certificates of approval from the legislative service bureau  
20 and the office. The office shall also electronically submit to the  
21 committee a copy of the rule, any agency reports required under  
22 this subsection, any regulatory impact statements required under  
23 subsection (3), and any certificates of approval required under  
24 subsection (1). The agency shall electronically transmit to the  
25 committee the records described in this subsection within 1 year  
26 after the date of the last public hearing on the proposed rule.

27 (3) Except as provided in subsection (6), an agency shall

1 prepare and include with a notice of transmittal under subsection  
2 (2) the request for rule-making and the response from the office, a  
3 small business impact statement prepared under section 40, and a  
4 regulatory impact statement. The regulatory impact statement must  
5 contain all of the following information:

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

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

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

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

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

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

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

26 (h) A discussion of the feasibility of establishing a  
27 regulatory program similar to that proposed in the rule that would

1 operate through market-based mechanisms.

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

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

6 (k) A demonstration that the proposed rule is necessary and  
7 suitable to achieve its purpose in proportion to the burdens it  
8 places on individuals.

9 (l) An estimate of the actual statewide compliance costs of  
10 the proposed rule on businesses and other groups.

11 (m) An identification of any disproportionate impact the  
12 proposed rule may have on small businesses because of their size.

13 (n) An identification of the nature of any report required and  
14 the estimated cost of its preparation by small businesses required  
15 to comply with the proposed rule.

16 (o) An analysis of the costs of compliance for all small  
17 businesses affected by the proposed rule, including costs of  
18 equipment, supplies, labor, and increased administrative costs.

19 (p) An identification of the nature and estimated cost of any  
20 legal consulting and accounting services that small businesses  
21 would incur in complying with the proposed rule.

22 (q) An estimate of the ability of small businesses to absorb  
23 the costs estimated under subdivisions (n) to (p) without suffering  
24 economic harm and without adversely affecting competition in the  
25 marketplace.

26 (r) An estimate of the cost, if any, to the agency of  
27 administering or enforcing a rule that exempts or sets lesser

1 standards for compliance by small businesses.

2 (s) An identification of the impact on the public interest of  
3 exempting or setting lesser standards of compliance for small  
4 businesses.

5 (t) A statement describing the manner in which the agency  
6 reduced the economic impact of the rule on small businesses or a  
7 statement describing the reasons such a reduction was not feasible.

8 (u) A statement describing how the agency has involved small  
9 businesses in the development of the rule.

10 (v) An estimate of the primary and direct benefits of the  
11 rule.

12 (w) An estimate of any cost reductions to businesses,  
13 individuals, groups of individuals, or governmental units as a  
14 result of the rule.

15 (x) An estimate of any increase in revenues to state or local  
16 governmental units as a result of the rule.

17 (y) An estimate of any secondary or indirect benefits of the  
18 rule.

19 (z) An identification of the sources the agency relied on in  
20 compiling the regulatory impact statement, including the  
21 methodology utilized in determining the existence and extent of the  
22 impact of a proposed rule and a cost-benefit analysis of the  
23 proposed rule.

24 (aa) 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) Any other information required by the office.

2 (4) The agency shall electronically transmit the regulatory  
3 impact statement required under subsection (3) to the office at  
4 least 28 days before the public hearing required under section 41.  
5 The agency shall not hold the public hearing until the regulatory  
6 impact statement has been reviewed and approved by the office. The  
7 agency shall also electronically transmit a copy of the regulatory  
8 impact statement to the committee before the public hearing and the  
9 agency shall make copies available to the public at the public  
10 hearing. The agency shall publish the regulatory impact statement  
11 on its website at least 10 days before the date of the public  
12 hearing.

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

26 (6) Subsections (2), (3), and (4) do not apply to a rule that  
27 is promulgated under section 33, ~~or~~ 48, **OR 66** or a rule to which

1 sections 41 and 42 do not apply as provided in section 44.

2       Sec. 47. (1) Except ~~in case of~~ **FOR** a rule processed under  
3 section 48, a rule becomes effective on the date fixed in the rule,  
4 which ~~shall~~ **MUST** not be earlier than 7 days after the date of ~~its~~  
5 promulgation, or, if a date is not ~~so fixed then~~ **IN THE RULE**, 7  
6 days after the date of promulgation.

7       (2) Except ~~in case of~~ **FOR** a rule processed under section 48 **OR**  
8 **66**, an agency may withdraw a promulgated rule ~~which~~ **THAT** has not  
9 become effective by filing a written request stating reasons for  
10 withdrawal to the secretary of state on or before the last day for  
11 filing rules for the interim period in which the rules were first  
12 filed, or by filing a written request for withdrawal to the  
13 secretary of state and the office, ~~of regulatory reform,~~ within a  
14 reasonable time, as determined by the office, ~~of regulatory reform,~~  
15 after the last day for filing and before publication of the rule in  
16 the next supplement to the code. In any other ~~case~~ **CIRCUMSTANCES**,  
17 an agency may abrogate its rule only by rescission. ~~When~~ **IF** an  
18 agency has withdrawn a promulgated rule, it shall give notice,  
19 stating reasons, to the committee that the rule has been withdrawn.

20       (3) Sections 45 and 45a apply to rules for which a public  
21 hearing has not been held by April 1, 2000.

22       **SEC. 65. (1) THE ENVIRONMENTAL RULES REVIEW COMMITTEE IS**  
23 **CREATED AS AN INDEPENDENT BODY IN THE OFFICE.**

24       **(2) THE ENVIRONMENTAL RULES REVIEW COMMITTEE CONSISTS OF THE**  
25 **DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY, OR HIS OR HER**  
26 **DESIGNEE, THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND HUMAN**  
27 **SERVICES, OR HIS OR HER DESIGNEE, AND THE CHIEF EXECUTIVE OFFICER**

1 OF THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION, OR HIS OR HER  
2 DESIGNEE, ALL OF WHOM SERVE AS NONVOTING MEMBERS, AND THE FOLLOWING  
3 VOTING MEMBERS APPOINTED BY THE GOVERNOR BY AND WITH THE ADVICE AND  
4 CONSENT OF THE SENATE:

5 (A) ONE INDIVIDUAL WHO REPRESENTS THE SOLID WASTE MANAGEMENT  
6 INDUSTRY.

7 (B) ONE INDIVIDUAL WHO REPRESENTS A STATEWIDE MANUFACTURING  
8 ORGANIZATION.

9 (C) ONE INDIVIDUAL WHO REPRESENTS A STATEWIDE ORGANIZATION  
10 THAT REPRESENTS SMALL BUSINESSES.

11 (D) ONE INDIVIDUAL WHO REPRESENTS PUBLIC UTILITIES THAT ENGAGE  
12 IN THE GENERATION, TRANSMISSION, OR DISTRIBUTION OF ELECTRICITY.

13 (E) ONE INDIVIDUAL WHO REPRESENTS A STATEWIDE ENVIRONMENTAL  
14 ORGANIZATION.

15 (F) ONE INDIVIDUAL WHO REPRESENTS THE OIL AND GAS INDUSTRY.

16 (G) ONE INDIVIDUAL WHO REPRESENTS A STATEWIDE AGRICULTURAL  
17 ORGANIZATION.

18 (H) ONE INDIVIDUAL WHO REPRESENTS LOCAL GOVERNMENTS.

19 (I) ONE INDIVIDUAL WHO REPRESENTS A STATEWIDE LAND CONSERVANCY  
20 ORGANIZATION.

21 (J) ONE INDIVIDUAL WHO REPRESENTS THE GENERAL PUBLIC.

22 (K) ONE INDIVIDUAL WHO IS A MEDICAL PROFESSIONAL.

23 (3) A VOTING MEMBER OF THE ENVIRONMENTAL RULES REVIEW  
24 COMMITTEE MUST POSSESS KNOWLEDGE, EXPERIENCE, OR EDUCATION THAT  
25 QUALIFIES HIM OR HER TO REPRESENT THE REPRESENTED CONSTITUENCY.  
26 WHETHER AN INDIVIDUAL POSSESSES THE REQUISITE KNOWLEDGE,  
27 EXPERIENCE, OR EDUCATION IS A DECISION FOR THE GOVERNOR AND THE

1 SENATE IN THE APPOINTMENT PROCESS, AND DOES NOT INVALIDATE ANY  
2 ACTION BY THE ENVIRONMENTAL RULES REVIEW COMMITTEE.

3 (4) AN INDIVIDUAL MAY NOT SERVE AS A VOTING MEMBER OF THE  
4 ENVIRONMENTAL RULES REVIEW COMMITTEE IF ANY OF THE FOLLOWING APPLY:

5 (A) THE INDIVIDUAL IS A CURRENT EMPLOYEE OF ANY OFFICE,  
6 DEPARTMENT, OR AGENCY OF THIS STATE.

7 (B) THE INDIVIDUAL WAS EMPLOYED BY THE DEPARTMENT OF  
8 ENVIRONMENTAL QUALITY WITHIN THE PRECEDING 3 YEARS.

9 (5) AN INDIVIDUAL WHO IS A LOBBYIST AGENT UNDER 1978 PA 472,  
10 MCL 4.411 TO 4.431, MAY SERVE AS A MEMBER OF THE ENVIRONMENTAL  
11 RULES REVIEW COMMITTEE ONLY IF THE INDIVIDUAL DOES NOT  
12 SIMULTANEOUSLY RECEIVE COMPENSATION OR REIMBURSEMENT OF ACTUAL  
13 EXPENSES FOR LOBBYING FROM MORE THAN 1 PERSON WHILE SERVING AS A  
14 MEMBER OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE.

15 (6) NOT MORE THAN 6 OF THE VOTING MEMBERS OF THE ENVIRONMENTAL  
16 RULES REVIEW COMMITTEE MAY BE MEMBERS OF THE SAME POLITICAL PARTY.

17 (7) SUBJECT TO SUBSECTION (8), A VOTING MEMBER OF THE  
18 ENVIRONMENTAL RULES REVIEW COMMITTEE SHALL SERVE A TERM OF 4 YEARS,  
19 EXCEPT THAT OF THE MEMBERS FIRST APPOINTED, 4 SHALL EACH SERVE A  
20 TERM OF 4 YEARS, 4 SHALL EACH SERVE A TERM OF 3 YEARS, AND 3 SHALL  
21 EACH SERVE A TERM OF 2 YEARS. A VOTING MEMBER OF THE ENVIRONMENTAL  
22 RULES REVIEW COMMITTEE MUST NOT BE APPOINTED TO SERVE MORE THAN 3  
23 CONSECUTIVE 4-YEAR TERMS BUT MAY BE APPOINTED AGAIN AFTER NOT  
24 SERVING ON THE ENVIRONMENTAL RULES REVIEW COMMITTEE FOR 1 FULL  
25 TERM.

26 (8) THE TERM OF A VOTING MEMBER OF THE ENVIRONMENTAL RULES  
27 REVIEW COMMITTEE CONTINUES UNTIL A SUCCESSOR IS APPOINTED.



1           (9) THE GOVERNOR MAY REMOVE A VOTING MEMBER OF THE  
2 ENVIRONMENTAL RULES REVIEW COMMITTEE FOR CAUSE. CAUSE INCLUDES, BUT  
3 IS NOT LIMITED TO, REPEATED FAILURE TO ATTEND MEETINGS.

4           (10) THE GOVERNOR SHALL APPOINT, BY AND WITH THE ADVICE AND  
5 CONSENT OF THE SENATE, A MEMBER TO FILL A VACANCY IN THE VOTING  
6 MEMBERSHIP OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE CREATED BY  
7 EITHER OF THE FOLLOWING:

8           (A) THE DEATH, RESIGNATION, OR REMOVAL OF A MEMBER BEFORE THE  
9 MEMBER'S TERM HAS EXPIRED. A MEMBER APPOINTED UNDER THIS  
10 SUBDIVISION SHALL SERVE FOR THE REMAINDER OF THE UNEXPIRED TERM.

11           (B) THE EXPIRATION OF A MEMBER'S TERM.

12           (11) THE ENVIRONMENTAL RULES REVIEW COMMITTEE SHALL NOT  
13 CONDUCT ANY BUSINESS OR PERFORM ANY DUTIES WHILE THERE IS A VACANCY  
14 IN THE VOTING MEMBERSHIP OF THE ENVIRONMENTAL RULES REVIEW  
15 COMMITTEE.

16           (12) THE VOTING MEMBERS OF THE ENVIRONMENTAL RULES REVIEW  
17 COMMITTEE SHALL SERVE WITHOUT COMPENSATION BUT MAY BE REIMBURSED BY  
18 THE OFFICE FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE  
19 PERFORMANCE OF THEIR OFFICIAL DUTIES AS MEMBERS.

20           (13) THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
21 AND THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES  
22 SHALL EACH SELECT A SCIENCE ADVISOR TO PARTICIPATE IN MEETINGS OF  
23 THE ENVIRONMENTAL RULES REVIEW COMMITTEE AND PROVIDE EXPERT ADVICE  
24 TO ENVIRONMENTAL RULES REVIEW COMMITTEE MEMBERS ON RELEVANT  
25 SCIENCE-BASED ISSUES THAT COME BEFORE THE ENVIRONMENTAL RULES  
26 REVIEW COMMITTEE. TO SERVE AS AN ENVIRONMENTAL RULES REVIEW  
27 COMMITTEE SCIENCE ADVISOR, AN INDIVIDUAL MUST POSSESS THE PROPER

1 EDUCATIONAL CREDENTIALS AND BACKGROUND TO PROVIDE SCIENCE-BASED  
2 EXPERT ADVICE. AN INDIVIDUAL MAY NOT SERVE AS A SCIENCE ADVISOR IF  
3 HE OR SHE IS A STATE EMPLOYEE OR CONTRACT EMPLOYEE OF THIS STATE.

4 (14) THE BUSINESS THAT THE ENVIRONMENTAL RULES REVIEW  
5 COMMITTEE MAY PERFORM MUST BE CONDUCTED AT A PUBLIC MEETING OF THE  
6 ENVIRONMENTAL RULES REVIEW COMMITTEE HELD IN COMPLIANCE WITH THE  
7 OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

8 (15) NINE VOTING MEMBERS OF THE ENVIRONMENTAL RULES REVIEW  
9 COMMITTEE CONSTITUTE A QUORUM. A QUORUM MUST BE PRESENT TO TRANSACT  
10 ANY BUSINESS AT A MEETING OF THE ENVIRONMENTAL RULES REVIEW  
11 COMMITTEE. DECISIONS BY THE ENVIRONMENTAL RULES REVIEW COMMITTEE AT  
12 A MEETING MUST BE MADE BY A MAJORITY VOTE OF THE MEMBERS PRESENT AT  
13 THE MEETING.

14 (16) THE ENVIRONMENTAL RULES REVIEW COMMITTEE SHALL SELECT A  
15 CHAIRPERSON AND VICE-CHAIRPERSON FROM ITS VOTING MEMBERS. THE  
16 CHAIRPERSON SHALL PRESIDE OVER ALL MEETINGS OF THE ENVIRONMENTAL  
17 RULES REVIEW COMMITTEE AND ENSURE THAT THE DECISIONS OF THE  
18 ENVIRONMENTAL RULES REVIEW COMMITTEE ARE IMPLEMENTED. THE VICE-  
19 CHAIRPERSON SHALL PERFORM THE DUTIES OF THE CHAIRPERSON IN THE  
20 CHAIRPERSON'S ABSENCE. THE CHAIRPERSON AND VICE-CHAIRPERSON SHALL  
21 SERVE FOR A TERM OF 2 YEARS AND MAY BE SELECTED TO SERVE FOR  
22 ADDITIONAL TERMS.

23 (17) THE CHAIRPERSON OR A MAJORITY OF THE MEMBERS OF THE  
24 ENVIRONMENTAL RULES REVIEW COMMITTEE MAY CALL A MEETING OF THE  
25 ENVIRONMENTAL RULES REVIEW COMMITTEE. HOWEVER, A MEETING MAY NOT BE  
26 CALLED ON LESS THAN 10 DAYS' NOTICE UNLESS ALL THE VOTING MEMBERS  
27 OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE AGREE IN WRITING OR BY

1 ELECTRONIC MEANS TO A SHORTER NOTICE PERIOD.

2 (18) THE ENVIRONMENTAL RULES REVIEW COMMITTEE MAY ENGAGE  
3 ADMINISTRATIVE, TECHNICAL, OR LEGAL CONSULTANTS, IN ADDITION TO  
4 ADVISORS SELECTED UNDER SUBSECTION (13), TO ASSIST THE  
5 ENVIRONMENTAL RULES REVIEW COMMITTEE IN THE PERFORMANCE OF ITS  
6 DUTIES. IF REQUESTED BY THE ENVIRONMENTAL RULES REVIEW COMMITTEE, A  
7 DEPARTMENT, AGENCY, OR OFFICE OF THIS STATE MAY PROVIDE  
8 ADMINISTRATIVE, TECHNICAL, OR LEGAL STAFF, IN ADDITION TO ADVISORS  
9 SELECTED UNDER SUBSECTION (13), TO ASSIST THE ENVIRONMENTAL RULES  
10 REVIEW COMMITTEE IN THE PERFORMANCE OF ITS DUTIES.

11 (19) THE PURPOSE OF THE ENVIRONMENTAL RULES REVIEW COMMITTEE  
12 IS TO OVERSEE ALL RULE-MAKING OF THE DEPARTMENT OF ENVIRONMENTAL  
13 QUALITY AS PROVIDED IN THIS ACT. FOR PURPOSES OF THIS ACT, THE  
14 DEPARTMENT OF ENVIRONMENTAL QUALITY INCLUDES ANY DEPARTMENT,  
15 AGENCY, COMMISSION, OR OTHER PERSON TO WHOM THE RULE-MAKING  
16 AUTHORITY OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY ON THE  
17 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION IS  
18 TRANSFERRED AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT  
19 ADDED THIS SECTION.

20 SEC. 66. (1) THE OFFICE SHALL PROMPTLY TRANSMIT TO THE  
21 ENVIRONMENTAL RULES REVIEW COMMITTEE ELECTRONIC COPIES OF A REQUEST  
22 FOR RULE-MAKING SUBMITTED TO THE OFFICE BY THE DEPARTMENT OF  
23 ENVIRONMENTAL QUALITY. THE DEPARTMENT OF ENVIRONMENTAL QUALITY IS  
24 STRONGLY ENCOURAGED TO CREATE A STAKEHOLDER REVIEW PROCESS BEFORE  
25 BEGINNING THE RULE PROMULGATION PROCESS TO ENSURE THAT ALL  
26 VIEWPOINTS ARE ADEQUATELY REPRESENTED IN THE PROPOSED RULE.

27 (2) IF 6 VOTING MEMBERS OF THE ENVIRONMENTAL RULES REVIEW

1 COMMITTEE VOTE THAT A REQUEST FOR RULE-MAKING SHOULD NOT BE  
2 REQUIRED TO PROCEED UNDER SUBSECTIONS (3) TO (11), SUBSECTIONS (3)  
3 TO (11) DO NOT APPLY TO THE REQUEST FOR RULE-MAKING.

4 (3) THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL PROVIDE  
5 COPIES OF DRAFT PROPOSED RULES TO THE OFFICE AND THE ENVIRONMENTAL  
6 RULES REVIEW COMMITTEE.

7 (4) AFTER RECEIVING DRAFT PROPOSED RULES UNDER SUBSECTION (3),  
8 THE ENVIRONMENTAL RULES REVIEW COMMITTEE SHALL MEET 1 OR MORE TIMES  
9 TO DETERMINE WHETHER THE DRAFT PROPOSED RULES MEET ALL OF THE  
10 FOLLOWING CRITERIA:

11 (A) THE DRAFT PROPOSED RULES DO NOT EXCEED THE RULE-MAKING  
12 DELEGATION CONTAINED IN THE STATUTE AUTHORIZING THE RULE-MAKING.

13 (B) THE DRAFT PROPOSED RULES REASONABLY IMPLEMENT AND APPLY  
14 THE STATUTE AUTHORIZING THE RULE-MAKING AND ARE CONSISTENT WITH ALL  
15 OTHER APPLICABLE LAW.

16 (C) THE DRAFT PROPOSED RULES ARE NECESSARY AND SUITABLE TO  
17 ACHIEVE THEIR PURPOSES IN PROPORTION TO THE BURDENS THEY PLACE ON  
18 INDIVIDUALS AND BUSINESSES.

19 (D) THE DRAFT PROPOSED RULES ARE AS CLEAR AND UNAMBIGUOUS AS  
20 REASONABLY APPROPRIATE CONSIDERING THE SUBJECT MATTER OF THE  
21 PROPOSED RULES AND THE INDIVIDUALS AND BUSINESSES THAT WILL BE  
22 REQUIRED TO COMPLY WITH THE PROPOSED RULES.

23 (E) THE DRAFT PROPOSED RULES ARE BASED ON SOUND AND OBJECTIVE  
24 SCIENTIFIC REASONING.

25 (5) THE DEPARTMENT OF ENVIRONMENTAL QUALITY MAY SUBMIT REVISED  
26 DRAFT PROPOSED RULES TO THE OFFICE AND THE ENVIRONMENTAL RULES  
27 REVIEW COMMITTEE.

1           (6) IF THE ENVIRONMENTAL RULES REVIEW COMMITTEE DETERMINES  
2 THAT DRAFT PROPOSED RULES DO NOT MEET THE CRITERIA IN SUBSECTION  
3 (4) , THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL NOT PROCEED WITH  
4 THE REQUEST FOR RULE-MAKING.

5           (7) IF THE ENVIRONMENTAL RULES REVIEW COMMITTEE DETERMINES  
6 THAT DRAFT PROPOSED RULES MEET THE CRITERIA IN SUBSECTION (4) , THE  
7 PUBLIC HEARING UNDER SECTIONS 41 AND 42 MUST BE HELD , EXCEPT THAT  
8 THE ENVIRONMENTAL RULES REVIEW COMMITTEE SHALL GIVE NOTICE OF AND  
9 CONDUCT THE PUBLIC HEARING , AND THE DEPARTMENT OF ENVIRONMENTAL  
10 QUALITY IS NOT REQUIRED TO PREPARE A SMALL BUSINESS IMPACT  
11 STATEMENT UNDER SECTION 40 (2) OR A REGULATORY IMPACT STATEMENT  
12 UNDER SECTION 45 (3) .

13           (8) AFTER A PUBLIC HEARING CONDUCTED BY THE ENVIRONMENTAL  
14 RULES REVIEW COMMITTEE UNDER SUBSECTION (7) , THE ENVIRONMENTAL  
15 RULES REVIEW COMMITTEE SHALL MEET 1 OR MORE TIMES TO DISCUSS  
16 COMMENTS MADE AND TESTIMONY GIVEN AT THE PUBLIC HEARING AND  
17 DETERMINE IF ANY REVISIONS TO THE DRAFT PROPOSED RULES ARE  
18 APPROPRIATE. AT THAT MEETING , THE DIRECTOR OF THE DEPARTMENT OF  
19 ENVIRONMENTAL QUALITY OR HIS OR HER DESIGNEE SHALL PROVIDE A  
20 SYNOPSIS OF THE COMMENTS CONTAINED IN THE PUBLIC HEARING RECORD. IF  
21 THE ENVIRONMENTAL RULES REVIEW COMMITTEE DETERMINES THAT REVISIONS  
22 ARE NOT APPROPRIATE , THE DRAFT PROPOSED RULES MUST BE PROCESSED AS  
23 PROVIDED IN SUBSECTION (10) . IF THE ENVIRONMENTAL RULES REVIEW  
24 COMMITTEE DETERMINES THAT 1 OR MORE REVISIONS ARE APPROPRIATE , THE  
25 ENVIRONMENTAL RULES REVIEW COMMITTEE MAY APPROVE THE DRAFT PROPOSED  
26 RULES SUBJECT TO THE REVISIONS BEING MADE.

27           (9) IF FEWER THAN 6 VOTING MEMBERS OF THE ENVIRONMENTAL RULES

1 REVIEW COMMITTEE OBJECT TO THE REVISIONS PROPOSED UNDER SUBSECTION  
2 (8), THE RULES MUST BE PROCESSED AS PROVIDED IN SUBSECTION (10). IF  
3 6 OR MORE VOTING MEMBERS OF THE ENVIRONMENTAL RULES REVIEW  
4 COMMITTEE OBJECT TO THE PROPOSED REVISIONS, THE ENVIRONMENTAL RULES  
5 REVIEW COMMITTEE SHALL MEET 1 OR MORE TIMES TO APPROVE REVISIONS TO  
6 THE DRAFT PROPOSED RULES.

7 (10) IF THE ENVIRONMENTAL RULES REVIEW COMMITTEE APPROVES  
8 DRAFT PROPOSED RULES, THE OFFICE SHALL TRANSMIT BY NOTICE OF  
9 TRANSMITTAL TO THE COMMITTEE COPIES OF THE RULES, THE REQUEST FOR  
10 RULE-MAKING, THE SYNOPSIS OF THE COMMENTS CONTAINED IN THE PUBLIC  
11 HEARING RECORD, A DESCRIPTION OF ANY REVISIONS TO THE PROPOSED  
12 RULES THAT WERE MADE BY THE ENVIRONMENTAL RULES REVIEW COMMITTEE  
13 AFTER THE PUBLIC HEARING, AND CERTIFICATES OF APPROVAL FROM THE  
14 LEGISLATIVE SERVICE BUREAU AND THE OFFICE. THE OFFICE SHALL ALSO  
15 ELECTRONICALLY SUBMIT TO THE ENVIRONMENTAL RULES REVIEW COMMITTEE A  
16 COPY OF THE RULE AND ANY CERTIFICATES OF APPROVAL FROM THE  
17 LEGISLATIVE SERVICE BUREAU AND THE OFFICE. THE OFFICE SHALL  
18 ELECTRONICALLY TRANSMIT TO THE ENVIRONMENTAL RULES REVIEW COMMITTEE  
19 THE INFORMATION DESCRIBED IN THIS SUBSECTION WITHIN 1 YEAR AFTER  
20 THE DATE OF THE LAST PUBLIC HEARING.

21 (11) THE ENVIRONMENTAL RULES REVIEW COMMITTEE SHALL MAKE A  
22 FINAL DECISION REGARDING DRAFT PROPOSED RULES AND ANY REVISIONS TO  
23 DRAFT PROPOSED RULES WITHIN 12 CALENDAR MONTHS AFTER RECEIVING  
24 ELECTRONIC COPIES OF THE REQUEST FOR RULE-MAKING SUBMITTED BY THE  
25 DEPARTMENT OF ENVIRONMENTAL QUALITY TO THE OFFICE UNDER SUBSECTION  
26 (1).

27 Enacting section 1. This amendatory act takes effect 90 days

1 after the date it is enacted into law.