

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4511 (as passed by the House)
Sponsor: Representative John Pappageorge
House Committee: Government Operations
Senate Committee: Government Operations

Date Completed: 5-12-03

CONTENT

The bill would amend the Administrative Procedures Act to do the following:

- Extend the period of time that the Joint Committee on Administrative Rules (JCAR) has to consider a proposed rule.**
- Extend the period of time that a notice of objection stays the ability of the Office of Regulatory Reform (ORR) to file a rule.**
- Extend the time period for JCAR to consider a resubmitted rule.**
- Require the ORR to publish an agency's report on its website.**
- Require an agency to transmit or mail a copy of a proposed rule to people who presented data on the rule.**

In general, the periods of time would be lengthened from 21 calendar days to 30 session days.

Under the Act, when an agency proposes a rule, the ORR is required to send a letter of transmittal to JCAR. After JCAR receives the letter of transmittal, the Committee has 21 calendar days to consider the rule and to object to it by filing a notice of objection based on the grounds listed in the Act. The bill would extend that period to 30 session days.

Currently, a notice of objection stays the ORR's ability to file a rule with the Secretary of State for 21 calendar days, unless both houses of the Legislature are not in session for more than 14 calendar days after the notice of objection is filed. In that case, the 21-day period is tolled and, upon the return of both houses of the Legislature, the remainder of the 21-day period is available for consideration. (If the Legislature is out of session for 21 days or less, the combined period for consideration by JCAR and the full Legislature may not exceed 63 days.) The bill would eliminate these provisions, and instead provide that if JCAR filed a notice of objection it would stay the ability of the ORR to file the rule for 30 session days.

Under the Act, during the 21-day period after JCAR files a notice of objection, the Legislature may enact legislation rescinding the rule upon its effective date, repealing the statutory provision under which the rule was authorized, or staying the effective date of the proposed rule for up to one year. If the Legislature enacts legislation within the 21-day period, the rule does not become effective unless the Governor vetoes the legislation. The bill would refer to the 30-session-day period.

The Act allows an agency to withdraw and resubmit a proposed rule with or without permission of the JCAR chair and alternate chair, subject to the following time periods:

- If permission to withdraw is granted, the 21-day time period for JCAR consideration and objection is tolled until the rule is resubmitted.
- If permission to withdraw is not granted, a new and untolled 21-day time period begins upon resubmission of the rule for JCAR consideration.

The bill would change the 21-day time period to a 30-session-day time period. Further, if permission to withdraw a rule is granted and the rule is resubmitted, JCAR presently must have at least seven calendar days after resubmission to consider the resubmitted rule. The bill would delete this provision.

Under the Act, before an agency proposing a rule has formally adopted the rule, the agency must prepare a report containing a synopsis of the comments contained in the public hearing record and describe any changes in the proposed rule made by the agency after the hearing. The ORR is required to transmit the agency report to JCAR, by letter. The bill also would require the ORR to publish an agency report on its website, within five days after receiving the report.

Currently, if approved by the ORR, an agency may submit a proposed rule to the Legislative Service Bureau for its formal certification. The bill provides that, at the same time, the agency also would have to transmit electronically, or by mail if requested, a copy of the proposed rule to each person who presented data, views, questions, or arguments at a public hearing on the proposed rule.

MCL 24.245 & 24.245a

Legislative Analyst: George Towne

FISCAL IMPACT

The bill would have an indeterminate impact regarding provisions that would require the Office of Regulatory Reform to publish agency reports on its website, and require agencies to mail copies of a proposed rule, if requested to each person who presented data, views, questions, or arguments at a public hearing on the proposed rule. The following noticed hearings on proposed rules were held in previous years:

FY 1998-99	47
FY 1999-2000	25
FY 2000-01	60
FY 2001-02	74

Fiscal Analyst: Bill Bowerman

S0304\4511sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.