

HOUSE BILL No. 4511

April 2, 2003, Introduced by Reps. Pappageorge, Van Regenmorter, Ehardt, Woodward, Gleason, Koetje, Drolet, Howell, Kooiman and Tobocman and referred to the Committee on Government Operations.

A bill to amend 1969 PA 306, entitled "Administrative procedures act of 1969," by amending sections 45 and 45a (MCL 24.245 and 24.245a), section 45 as amended and section 45a as added by 1999 PA 262.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 45. (1) If approved by the office of regulatory
2 reform, the agency may submit the proposed rule to the
3 legislative service bureau for its formal certification. The
4 legislative service bureau promptly shall approve a proposed rule
5 if it considers the proposed rule to be proper as to all matters
6 of form, classification, and arrangement. The office of
7 regulatory reform may approve a proposed rule if it considers the
8 proposed rule to be legal.

9 (2) Except as provided in subsection ~~(6)~~ (7), after notice
10 is given as provided in this act and before the agency proposing

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1 the rule has formally adopted the rule, the agency shall prepare
2 an agency report containing a synopsis of the comments contained
3 in the public hearing record and shall describe any changes in
4 the proposed rules that were made by the agency after the public
5 hearing. The office of regulatory reform shall transmit by
6 letter to the committee copies of the rule, the agency reports,
7 and certificates of approval from the legislative service bureau
8 and the office of regulatory reform. The number of copies
9 transmitted shall be the number required in the committee
10 procedures and standards but not to exceed 12 copies. The agency
11 shall transmit to the committee the documents described in this
12 subsection within 1 year after the date of the last public
13 hearing on the proposed rule unless the proposed rule is a
14 resubmission under section 45a(7). **Within 5 days after receipt**
15 **of an agency report that contains a synopsis of the comments of**
16 **the public hearing record and that describes any changes in the**
17 **proposed rule made by the agency after the public hearing, the**
18 **office of regulatory reform shall publish the agency report on**
19 **its website.**

20 (3) Except for a rule promulgated under sections 33, 44, and
21 48, the agency shall prepare and include with the letter of
22 transmittal a regulatory impact statement containing all of the
23 following information:

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

27 (b) An identification of the behavior and frequency of

1 behavior that the rule is designed to alter.

2 (c) An identification of the harm resulting from the behavior
3 that the rule is designed to alter and the likelihood that the
4 harm will occur in the absence of the rule.

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

7 (e) An identification of the businesses, groups, or
8 individuals who will be directly affected by, bear the cost of,
9 or directly benefit from the rule.

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

13 (g) A discussion of the feasibility of establishing a
14 regulatory program similar to that proposed in the rule that
15 would operate through market-based mechanisms.

16 (h) An estimate of the cost of rule imposition on the agency
17 promulgating the rule.

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

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

22 (k) An identification of any disproportionate impact the
23 proposed rule may have on small businesses because of their
24 size.

25 (l) An identification of the nature of any report and the
26 estimated cost of its preparation by small business required to
27 comply with the proposed rule.

1 (m) An analysis of the costs of compliance for all small
2 businesses affected by the proposed rule, including costs of
3 equipment, supplies, labor, and increased administrative costs.

4 (n) An identification of the nature and estimated cost of any
5 legal consulting and accounting services that small businesses
6 would incur in complying with the proposed rule.

7 (o) An estimate of the ability of small businesses to absorb
8 the costs estimated under subdivisions (l) through (n) without
9 suffering economic harm and without adversely affecting
10 competition in the marketplace.

11 (p) An estimate of the cost, if any, to the agency of
12 administering or enforcing a rule that exempts or sets lesser
13 standards for compliance by small businesses.

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

17 (r) A statement describing the manner in which the agency
18 reduced the economic impact of the rule on small businesses or a
19 statement describing the reasons such a reduction was not
20 feasible.

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

23 (t) An estimate of the primary and direct benefits of the
24 rule.

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

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

3 (w) An estimate of any secondary or indirect benefits of the
4 rule.

5 (x) An identification of the sources the agency relied upon
6 in compiling the regulatory impact statement.

7 (y) Any other information required by the office of
8 regulatory reform.

9 (4) The agency shall transmit the regulatory impact statement
10 required under subsection (3) to the office of regulatory reform
11 at least 28 days before the public hearing required pursuant to
12 section 42. Before the public hearing can be held, the
13 regulatory impact statement must be approved by the office of
14 regulatory reform. The agency shall also transmit a copy of the
15 regulatory impact statement to the committee before the public
16 hearing and the agency shall make copies available to the public
17 at the public hearing.

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

1 writing to the senate and house appropriations committees and to
2 the committee before the date of consideration of the proposed
3 rule by the committee.

4 **(6) At the time an agency submits a proposed rule to the**
5 **legislative service bureau for its formal certification pursuant**
6 **to subsection (1), the agency shall also transmit,**
7 **electronically, or by mail if requested, a copy of the proposed**
8 **rule to each person who presented data, views, questions, or**
9 **arguments at a public hearing on the proposed rule.**

10 **(7) —(6)—** Subsections (2), (3), and (4) do not apply to a
11 rule that is promulgated under sections 33, 44, and 48.

12 Sec. 45a. (1) Except as otherwise provided for in
13 subsections (7) and (8), after receipt by the committee of the
14 letter of transmittal specified in section 45(2), the committee
15 has ~~21 calendar~~ **30 session** days in which to consider the rule
16 and to object to the rule by filing a notice of objection
17 approved by a concurrent majority of the committee members. A
18 notice of objection may only be approved by the committee if the
19 committee affirmatively determines by a concurrent majority that
20 1 or more of the following conditions exist:

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

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

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

26 (d) The rule is in conflict with state law.

27 (e) A substantial change in circumstances has occurred since

1 enactment of the law upon which the proposed rule is based.

2 (f) The rule is arbitrary or capricious.

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

5 (2) If the committee does not file a notice of objection
6 within the time period prescribed in subsection (1), the office
7 of regulatory reform may immediately file the rule with the
8 secretary of state. The rule shall take effect 7 days after the
9 date of its filing unless a later date is indicated within the
10 rule.

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

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

19 (b) A repeal of the statutory provision under which the rule
20 was authorized.

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

23 (4) The notice of objection filed under subsection (3) stays
24 the ability of the office of regulatory reform to file the rule
25 with the secretary of state for ~~the following time periods:~~ 30
26 **session days.**

27 ~~(a) Except as provided in subdivision (b) or (c), 21~~

1 ~~consecutive calendar days.~~

2 ~~—— (b) If both houses of the legislature are not in session for~~
3 ~~more than 14 consecutive calendar days but 21 or less consecutive~~
4 ~~calendar days following the filing of a notice of objection, the~~
5 ~~21-day time period described in subdivision (a) shall toll, with~~
6 ~~the remainder of the 21-day time period available for~~
7 ~~consideration upon the return of both houses. In no case under~~
8 ~~this subdivision shall the combined time period for consideration~~
9 ~~by the committee and full legislature exceed 63 consecutive~~
10 ~~calendar days.~~

11 ~~—— (c) If both houses of the legislature are not in session~~
12 ~~more than 21 consecutive calendar days following the filing of a~~
13 ~~timely notice of objection, the 21-day time period described in~~
14 ~~subdivision (a) shall toll, with the remainder of the 21-day time~~
15 ~~period available for consideration upon the return of both~~
16 ~~houses.~~

17 (5) If the legislation introduced pursuant to subsection (3)
18 is defeated in either house and if the vote by which the
19 legislation failed to pass is not reconsidered in compliance with
20 the rules of that house, or if legislation introduced pursuant to
21 subsection (3) is not adopted by both houses within the time
22 period specified in subsection (4), the office of regulatory
23 reform may file the rule with the secretary of state. Upon
24 filing with the secretary of state, the rule shall take effect 7
25 days after the filing date unless a later date is specified
26 within the rule.

27 (6) If the legislation introduced pursuant to subsection (3)

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1 is enacted by the legislature and presented to the governor
2 within the ~~21-day~~ **30-session-day** period, the rules do not
3 become effective unless the legislation is vetoed by the governor
4 as provided by law. If the governor vetoes the legislation, the
5 office of regulatory reform may file the rules immediately. The
6 rule shall take effect 7 days after the date of its filing unless
7 a later effective date is indicated within the rule.

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

10 (a) With permission of the chair and alternate chair, the
11 agency may withdraw the rule and resubmit it. If permission to
12 withdraw is granted, the ~~21-day~~ **30-session-day** time period
13 described in subsection (1) is tolled until the rule is
14 resubmitted. ~~—, except that the committee shall have at least 7~~
15 ~~calendar days after resubmission to consider the resubmitted~~
16 ~~rule. The period of time between withdrawal and resubmission of~~
17 ~~the rule is not counted toward the 63-day limit for rule~~
18 ~~consideration described in subsection (4)(b).~~

19 (b) Without permission of the chair and alternate chair, the
20 agency may withdraw the rule and resubmit it. If permission to
21 withdraw is not granted, a new and untolled ~~21-day~~
22 **30-session-day** time period described in subsection (1) shall
23 begin upon resubmission of the rule to the committee for
24 consideration.

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

<<(9) As used in this section, "session day" means each day in which a quorum of both the house of representatives and the senate, following a call to order, officially convenes in Lansing to conduct legislative business.>>