

# SENATE BILL No. 255

March 4, 2003, Introduced by Senators BISHOP, KUIPERS, JELINEK, HAMMERSTROM, CASSIS, BARCIA, PATTERSON, McMANUS, TOY, THOMAS and CLARK-COLEMAN and referred to the Committee on Government Operations.

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

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

1       Sec. 45a. (1) Except as otherwise provided for in  
 2 subsections (7) and (8), after receipt by the committee of the  
 3 letter of transmittal specified in section 45(2), the committee  
 4 has ~~21~~ 90 calendar days in which to consider the rule and to  
 5 object to the rule by filing a notice of objection approved by a  
 6 concurrent majority of the committee members. A notice of  
 7 objection may only be approved by the committee if the committee  
 8 affirmatively determines by a concurrent majority that 1 or more  
 9 of 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

1 rule-making authority.

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

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

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

7 (f) The rule is arbitrary or capricious.

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

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

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

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

24 (b) A repeal of the statutory provision under which the rule  
25 was authorized.

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

1 (4) The notice of objection filed under subsection (3) stays  
2 the ability of the office of regulatory reform to file the rule  
3 with the secretary of state for the following time periods:

4 (a) Except as provided in subdivision (b), ~~or (c), 21~~ **90**  
5 consecutive calendar days.

6 (b) If both houses of the legislature are not in session for  
7 more than 14 consecutive calendar days ~~but 21 or less~~  
8 ~~consecutive calendar days following the filing of a notice of~~  
9 ~~objection~~ **during that 90-day period**, the ~~21-day~~ **90-day** time  
10 period described in subdivision (a) shall toll, with the  
11 remainder of the ~~21-day~~ **90-day** time period available for  
12 consideration upon the return of both houses. ~~In no case under~~  
13 ~~this subdivision shall the combined time period for consideration~~  
14 ~~by the committee and full legislature exceed 63 consecutive~~  
15 ~~calendar days.~~

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

22 (5) If the legislation introduced pursuant to subsection (3)  
23 is defeated in either house and if the vote by which the  
24 legislation failed to pass is not reconsidered in compliance with  
25 the rules of that house, or if legislation introduced pursuant to  
26 subsection (3) is not adopted by both houses within the time  
27 period specified in subsection (4), the office of regulatory

1 reform may file the rule with the secretary of state. Upon  
2 filing with the secretary of state, the rule shall take effect 7  
3 days after the filing date unless a later date is specified  
4 within the rule.

5 (6) If the legislation introduced pursuant to subsection (3)  
6 is enacted by the legislature and presented to the governor  
7 within the ~~21-day~~ **90-day** period, the rules do not become  
8 effective unless the legislation is vetoed by the governor as  
9 provided by law. If the governor vetoes the legislation, the  
10 office of regulatory reform may file the rules immediately. The  
11 rule shall take effect 7 days after the date of its filing unless  
12 a later effective date is indicated within the rule.

13 (7) An agency may withdraw a proposed rule ~~under the~~  
14 ~~following conditions:~~ **at any time. If the rule is resubmitted,**  
15 **the committee has a new 90-day period to consider the rule and to**  
16 **file a notice of objection under subsection (1).**

17 ~~(a) With permission of the chair and alternate chair, the~~  
18 ~~agency may withdraw the rule and resubmit it. If permission to~~  
19 ~~withdraw is granted, the 21-day time period described in~~  
20 ~~subsection (1) is tolled until the rule is resubmitted, except~~  
21 ~~that the committee shall have at least 7 calendar days after~~  
22 ~~resubmission to consider the resubmitted rule. The period of~~  
23 ~~time between withdrawal and resubmission of the rule is not~~  
24 ~~counted toward the 63-day limit for rule consideration described~~  
25 ~~in subsection (4)(b).~~

26 ~~—— (b) Without permission of the chair and alternate chair, the~~  
27 ~~agency may withdraw the rule and resubmit it. If permission to~~

1 ~~withdraw is not granted, a new and untolled 21-day time period~~  
2 ~~described in subsection (1) shall begin upon resubmission of the~~  
3 ~~rule to the committee for consideration.~~

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