

**SUBSTITUTE FOR
SENATE BILL NO. 13**

A bill to amend 1969 PA 306, entitled "Administrative procedures act of 1969," by amending sections 3 and 45 (MCL 24.203 and 24.245), section 3 as amended by 1988 PA 277 and section 45 as amended by 2004 PA 491, and by adding section 45b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) "Adoption of a rule" means that step in the
2 processing of a rule consisting of the formal action of an agency
3 establishing a rule before its promulgation.

4 (2) "Agency" means a state department, bureau, division,
5 section, board, commission, trustee, authority or officer, created
6 by the constitution, statute, or agency action. Agency does not
7 include an agency in the legislative or judicial branch of state
8 government, the governor, an agency having direct governing control
9 over an institution of higher education, the state civil service

1 commission, or an association of insurers created under the
 2 insurance code of 1956, ~~Act No. 218 of the Public Acts of 1956,~~
 3 ~~being sections 500.100 to 500.8302 of the Michigan Compiled Laws~~
 4 **1956 PA 218, MCL 500.100 TO 500.8302**, or other association or
 5 facility formed under ~~Act No. 218 of the Public Acts of 1956~~ **THAT**
 6 **ACT** as a nonprofit organization of insurer members.

7 (3) "Contested case" means a proceeding, including rate-
 8 making, price-fixing, and licensing, in which a determination of
 9 the legal rights, duties, or privileges of a named party is
 10 required by law to be made by an agency after an opportunity for an
 11 evidentiary hearing. When a hearing is held before an agency and an
 12 appeal from its decision is taken to another agency, the hearing
 13 and the appeal are deemed to be a continuous proceeding as though
 14 before a single agency.

15 (4) "Committee" means the joint committee on administrative
 16 rules.

17 (5) "Court" means the circuit court.

18 (6) **"DECISION RECORD" MEANS, IN REGARD TO A REQUEST FOR RULE-**
 19 **MAKING WHERE AN AGENCY RECEIVES RECOMMENDATIONS OR COMMENTS BY AN**
 20 **ADVISORY COMMITTEE OR OTHER ADVISORY ENTITY CREATED BY LAW, ALL OF**
 21 **THE FOLLOWING:**

22 (A) **THE MINUTES OF ALL MEETINGS RELATED TO THE REQUEST FOR**
 23 **RULE-MAKING.**

24 (B) **THE VOTES OF MEMBERS.**

25 (C) **A SUMMARY OF THE DISCUSSION AND REASONING IN SUPPORT OF**
 26 **THE DECISION.**

27 (7) ~~(6)~~-"Guideline" means an agency statement or declaration

1 of policy which the agency intends to follow, which does not have
2 the force or effect of law, and which binds the agency but does not
3 bind any other person.

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

1 legal **AND APPROPRIATE.**

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

25 (3) Except for a rule promulgated under sections 33, 44, and
26 48, the agency shall prepare and include with the notice of
27 transmittal **THE REQUEST FOR RULE-MAKING AND THE RESPONSE FROM THE**

1 **STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES, A SMALL BUSINESS**
2 **IMPACT STATEMENT PREPARED UNDER SECTION 40(1), AND** a regulatory
3 impact statement. ~~containing~~ **THE REGULATORY IMPACT STATEMENT SHALL**
4 **CONTAIN** all of the following information:

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

8 (B) A COMPARISON OF THE PROPOSED RULE TO STANDARDS IN OTHER
9 STATES IN THE GREAT LAKES REGION AND A STATEMENT OF WHETHER THE
10 RULE EXCEEDS STANDARDS IN SUCH CASES.

11 (C) ~~(b)~~—An identification of the behavior and frequency of
12 behavior that the rule is designed to alter.

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

16 (E) ~~(d)~~—An estimate of the change in the frequency of the
17 targeted behavior expected from the rule.

18 (F) ~~(e)~~—An identification of the businesses, groups, or
19 individuals who will be directly affected by, bear the cost of, or
20 directly benefit from the rule.

21 (G) ~~(f)~~—An identification of any reasonable alternatives to
22 regulation pursuant to the proposed rule that would achieve the
23 same or similar goals.

24 (H) ~~(g)~~—A discussion of the feasibility of establishing a
25 regulatory program similar to that proposed in the rule that would
26 operate through market-based mechanisms.

27 (I) ~~(h)~~—An estimate of the cost of rule imposition on the

1 agency promulgating the rule.

2 (J) ~~(i)~~—An estimate of the actual statewide compliance costs
3 of the proposed rule on individuals.

4 (K) ~~(j)~~—An estimate of the actual statewide compliance costs
5 of the proposed rule on businesses and other groups.

6 (L) ~~(k)~~—An identification of any disproportionate impact the
7 proposed rule may have on small businesses because of their size.

8 (M) ~~(l)~~—An identification of the nature of any report and the
9 estimated cost of its preparation by small business required to
10 comply with the proposed rule.

11 (N) ~~(m)~~—An analysis of the costs of compliance for all small
12 businesses affected by the proposed rule, including costs of
13 equipment, supplies, labor, and increased administrative costs.

14 (O) ~~(n)~~—An identification of the nature and estimated cost of
15 any legal consulting and accounting services that small businesses
16 would incur in complying with the proposed rule.

17 (P) ~~(o)~~—An estimate of the ability of small businesses to
18 absorb the costs estimated under subdivisions ~~(l)~~—(M) through ~~(n)~~
19 (O) without suffering economic harm and without adversely affecting
20 competition in the marketplace.

21 (Q) ~~(p)~~—An estimate of the cost, if any, to the agency of
22 administering or enforcing a rule that exempts or sets lesser
23 standards for compliance by small businesses.

24 (R) ~~(q)~~—An identification of the impact on the public interest
25 of exempting or setting lesser standards of compliance for small
26 businesses.

27 (S) ~~(r)~~—A statement describing the manner in which the agency

1 reduced the economic impact of the rule on small businesses or a
2 statement describing the reasons such a reduction was not feasible.

3 (T) ~~(s)~~—A statement describing ~~whether and~~ how the agency has
4 involved small businesses in the development of the rule.

5 (U) ~~(t)~~—An estimate of the primary and direct benefits of the
6 rule.

7 (V) ~~(u)~~—An estimate of any cost reductions to businesses,
8 individuals, groups of individuals, or governmental units as a
9 result of the rule.

10 (W) ~~(v)~~—An estimate of any increase in revenues to state or
11 local governmental units as a result of the rule.

12 (X) ~~(w)~~—An estimate of any secondary or indirect benefits of
13 the rule.

14 (Y) ~~(x)~~—An identification of the sources the agency relied
15 upon in compiling the regulatory impact statement, **INCLUDING THE**
16 **METHODOLOGY UTILIZED IN DETERMINING THE EXISTENCE AND EXTENT OF THE**
17 **IMPACT OF A PROPOSED RULE AND A COST-BENEFIT ANALYSIS OF THE**
18 **PROPOSED RULE.**

19 (Z) **A DETAILED RECITATION OF THE EFFORTS OF THE AGENCY TO**
20 **COMPLY WITH THE MANDATE TO REDUCE THE DISPROPORTIONATE IMPACT OF**
21 **THE RULE UPON SMALL BUSINESSES AS DESCRIBED IN SECTION 40(1)(A)**
22 **THROUGH (D).**

23 (AA) ~~(y)~~—Any other information required by the **STATE** office of
24 ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES.**

25 (4) The agency shall electronically transmit the regulatory
26 impact statement required under subsection (3) to the **STATE** office
27 of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES** at least 28

1 days before the public hearing required pursuant to section 42.
2 Before the public hearing can be held, the regulatory impact
3 statement must be reviewed and approved by the **STATE** office of
4 ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES**. The agency
5 shall also electronically transmit a copy of the regulatory impact
6 statement to the committee before the public hearing and the agency
7 shall make copies available to the public at the public hearing.
8 **THE AGENCY SHALL PUBLISH THE REGULATORY IMPACT STATEMENT ON ITS**
9 **WEBSITE AT LEAST 10 DAYS BEFORE THE DATE OF THE PUBLIC HEARING.**

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

23 (6) Subsections (2), (3), and (4) do not apply to a rule that
24 is promulgated under sections 33, 44, and 48.

25 **SEC. 45B. (1) THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AND**
26 **RULES SHALL POST THE FOLLOWING ON ITS WEBSITE WITHIN 2 BUSINESS**
27 **DAYS AFTER TRANSMITTAL PURSUANT TO SECTION 45:**

1 (A) THE REGULATORY IMPACT STATEMENT SET OUT IN SECTION 45(3).

2 (B) INSTRUCTIONS ON ANY EXISTING ADMINISTRATIVE REMEDIES OR
3 APPEALS AVAILABLE TO THE PUBLIC.

4 (C) INSTRUCTIONS REGARDING THE METHOD OF COMPLYING WITH THE
5 RULES, IF AVAILABLE.

6 (D) ANY RULES FILED WITH THE SECRETARY OF STATE AND THE
7 EFFECTIVE DATE OF THOSE RULES.

8 (2) THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
9 SHALL FACILITATE LINKING THE INFORMATION CONTAINED IN SUBSECTION
10 (1) TO THE DEPARTMENT OR AGENCY WEBSITE.

11 Enacting section 1. This amendatory act does not take effect
12 unless all of the following bills of the 95th Legislature are
13 enacted into law:

14 (a) Senate Bill No. 431.

15 (b) Senate Bill No. 434.