

# SENATE BILL No. 13

January 14, 2009, Introduced by Senator HARDIMAN and referred to the Committee on Government Operations and Reform.

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

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

1           Sec. 45. (1) Except as otherwise provided for in this  
 2 subsection, the agency shall submit the proposed rule to the  
 3 legislative service bureau for its formal certification. The  
 4 submission to the legislative service bureau for formal  
 5 certification shall be in the form of electronic transmission. If  
 6 requested by the legislative service bureau, the **STATE** office of  
 7 ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES** shall also  
 8 transmit up to 4 paper copies of the proposed rule. The legislative  
 9 service bureau shall promptly issue a certificate of approval

1 indicating a determination that a proposed rule is proper as to all  
2 matters of form, classification, and arrangement. If the  
3 legislative service bureau fails to issue a certificate of approval  
4 within 21 calendar days after receipt of the submission for formal  
5 certification, the **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE**  
6 **HEARINGS AND RULES** may issue a certificate of approval. If the  
7 submission to the legislative service bureau is returned by the  
8 legislative service bureau to the agency before the expiration of  
9 the 21-calendar-day time period, the 21-calendar-day time period is  
10 tolled until the rule is resubmitted by the agency. The remainder  
11 of the 21-calendar-day time period or 6 calendar days, whichever is  
12 longer, shall be available for consideration by the legislative  
13 service bureau for formal certification of the rule. The **STATE**  
14 office of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES** may  
15 approve a proposed rule if it considers the proposed rule to be  
16 legal.

17 (2) Except as provided in subsection (6), after notice is  
18 given as provided in this act and before the agency proposing the  
19 rule has formally adopted the rule, the agency shall prepare an  
20 agency report containing a synopsis of the comments contained in  
21 the public hearing record and a copy of the regulatory impact  
22 statement required under subsection (3). In the report, the agency  
23 shall describe any changes in the proposed rules that were made by  
24 the agency after the public hearing. The **STATE** office of ~~regulatory~~  
25 ~~reform~~ **ADMINISTRATIVE HEARINGS AND RULES** shall transmit by notice  
26 of transmittal to the committee copies of the rule, the agency  
27 reports, a copy of the regulatory impact statement, and

1 certificates of approval from the legislative service bureau and  
2 the **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND**  
3 **RULES**. The **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE**  
4 **HEARINGS AND RULES** shall also electronically submit a copy of the  
5 rule, any agency reports required under this subsection, any  
6 regulatory impact statements required under subsection (3), and any  
7 certificates of approval required under subsection (1) to the  
8 committee. The agency shall electronically transmit to the  
9 committee the records described in this subsection within 1 year  
10 after the date of the last public hearing on the proposed rule  
11 unless the proposed rule is a resubmission under section 45a(7).

12 (3) Except for a rule promulgated under sections 33, 44, and  
13 48, the agency shall prepare and include with the notice of  
14 transmittal a regulatory impact statement containing all of the  
15 following information:

16 (a) A comparison of the proposed rule to parallel federal  
17 rules or standards set by a state or national licensing agency or  
18 accreditation association, if any exist. **THE AGENCY SHALL ALSO**  
19 **INDICATE WHETHER THE PROPOSED RULE EXCEEDS ANY EXISTING FEDERAL**  
20 **STANDARDS.**

21 (b) An identification of the behavior and frequency of  
22 behavior that the rule is designed to alter.

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

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

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

4 (f) An identification of any reasonable alternatives to  
5 regulation pursuant to the proposed rule that would achieve the  
6 same or similar goals.

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

10 (h) An estimate of the cost of rule imposition on the agency  
11 promulgating the rule.

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

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

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

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

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

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

27 (o) An estimate of the ability of small businesses to absorb

1 the costs estimated under subdivisions (l) through (n) without  
2 suffering economic harm and without adversely affecting competition  
3 in the marketplace.

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

7 (q) An identification of the impact on the public interest of  
8 exempting or setting lesser standards of compliance for small  
9 businesses.

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

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

15 (t) An estimate of the primary and direct benefits of the  
16 rule.

17 (u) An estimate of any cost reductions to businesses,  
18 individuals, groups of individuals, or governmental units as a  
19 result of the rule.

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

22 (w) An estimate of any secondary or indirect benefits of the  
23 rule.

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

26 **(Y) AN ESTIMATE OF WHETHER IMPLEMENTATION OF THE RULE WOULD**  
27 **ALLOW ANY GOVERNMENTAL AGENCY TO COMPETE IN THE REGULATED ACTIVITY**

1 **AGAINST THE PRIVATE SECTOR.**

2 (Z) ~~(y)~~ Any other information required by the **STATE** office of  
3 ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES**.

4 (4) The agency shall electronically transmit the regulatory  
5 impact statement required under subsection (3) to the **STATE** office  
6 of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES** at least 28  
7 days before the public hearing required pursuant to section 42.  
8 Before the public hearing can be held, the regulatory impact  
9 statement must be reviewed and approved by the **STATE** office of  
10 ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES**. The agency  
11 shall also electronically transmit a copy of the regulatory impact  
12 statement to the committee before the public hearing and the agency  
13 shall make copies available to the public at the public hearing.

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

27 (6) Subsections (2), (3), and (4) do not apply to a rule that

1 is promulgated under sections 33, 44, and 48.

2 SEC. 45B. (1) THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AND  
3 RULES SHALL POST THE FOLLOWING ON ITS WEBSITE:

4 (A) ANY RULES SENT TO THE COMMITTEE PURSUANT TO SECTION 45(2),  
5 CLEAR INSTRUCTIONS ON ANY EXISTING ADMINISTRATIVE REMEDIES OR  
6 APPEALS AVAILABLE TO THE PUBLIC, A SUMMARY OF THE CHANGES IN POLICY  
7 CONTAINED IN THE RULES, AND ANY INSTRUCTIONS REGARDING THE METHOD  
8 OF COMPLYING WITH THE RULES. THE POSTING SHALL OCCUR NOT LESS THAN  
9 2 BUSINESS DAYS AFTER THE TRANSMITTAL.

10 (B) ANY RULES FILED WITH THE SECRETARY OF STATE AND THE  
11 EFFECTIVE DATE OF THOSE RULES.

12 (2) THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
13 SHALL FACILITATE LINKING THE INFORMATION CONTAINED IN SUBSECTION  
14 (1) TO DEPARTMENT OR AGENCY WEBSITES.