

# HOUSE BILL No. 5580

March 12, 1990, Introduced by Reps. Griffin, Randall and Miller and referred to the Committee on House Oversight.

A bill to amend section 45 of Act No. 306 of the Public Acts of 1969, entitled as amended

"Administrative procedures act of 1969,"

as amended by Act No. 288 of the Public Acts of 1989, being section 24.245 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 45 of Act No. 306 of the Public Acts of  
2 1969, as amended by Act No. 288 of the Public Acts of 1989, being  
3 section 24.245 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5 Sec. 45. (1) The legislative service bureau promptly shall  
6 approve a proposed rule if the legislative service bureau consid-  
7 ers the proposed rule to be proper as to all matters of form,  
8 classification, arrangement, and numbering. The department of  
9 the attorney general promptly shall approve a proposed rule if

1 ~~that~~ THE department OF THE ATTORNEY GENERAL considers the  
2 proposed rule to be legal.

3 (2) After publication of the proposed rule in the Michigan  
4 register and after notice is given as provided in this act and  
5 before the agency PROPOSING THE RULE has formally adopted the  
6 rule, the agency shall transmit by letter to the committee copies  
7 of the rule bearing certificates of approval from the legislative  
8 service bureau and the department of the attorney general and  
9 copies of the rule without certificates. The agency transmittal  
10 shall be received by the committee ~~not less than~~ WITHIN 2 years  
11 after the date of the last public hearing on the proposed rule,  
12 unless the proposed rule is a resubmission under  
13 subsection (11). The agency shall include with the letter of  
14 transmittal a regulatory impact statement on a 1-page form pro-  
15 vided by the committee. The statement shall provide estimates of  
16 the impact of the proposed rules upon all of the following:

17 (a) The revenues, expenditures, and paper work requirements  
18 of the agency proposing the rule.

19 (b) The revenues and expenditures of any other state or  
20 local government agency affected by the proposed rule.

21 (c) The taxpayers, consumers, industry or trade groups,  
22 small business, or other applicable groups affected by the pro-  
23 posed rule.

24 (3) Except as provided in section 40(4), if the regulatory  
25 impact statement discloses an impact on small businesses, the  
26 agency shall include with the letter of transmittal a small  
27 business economic impact statement in a form prescribed by the

1 committee. A small business economic impact statement shall  
2 contain all of the following with respect to the proposed rules:

3 (a) The nature of any reports and the estimated cost of  
4 their preparation by small businesses which would be required to  
5 comply with the proposed rules.

6 (b) An analysis of the costs of compliance for all small  
7 businesses affected by the proposed rules, including costs of  
8 equipment, supplies, labor, and increased administrative costs.

9 (c) The nature and estimated cost of any legal, consulting,  
10 and accounting services which small businesses would incur in  
11 complying with the proposed rules.

12 (d) A statement regarding whether the proposed rules will  
13 have a disproportionate impact on small businesses because of the  
14 size of those businesses.

15 (e) The ability of small businesses to absorb the costs  
16 estimated under subdivisions (a) to (c) without suffering eco-  
17 nomic harm and without adversely affecting competition in the  
18 marketplace.

19 (f) The cost, if any, to the agency of administering or  
20 enforcing a rule which exempts or sets lesser standards for com-  
21 pliance by small businesses.

22 (g) The impact on the public interest of exempting or set-  
23 ting lesser standards of compliance for small businesses.

24 (h) A statement regarding the manner in which the agency  
25 reduced the economic impact of the rule on small businesses as  
26 required under section 40, or a statement regarding the reasons  
27 such a reduction was not feasible.

1 (i) A statement regarding whether and how the agency has  
2 involved small businesses in the development of the rule.

3 (4) In order to obtain cost information for purposes of sub-  
4 section (3), an agency may survey a representative sample of  
5 affected small businesses or trade associations or may adopt any  
6 other means considered appropriate by the agency.

7 (5) The agency shall transmit a copy of the small business  
8 economic impact statement to the director of commerce at the same  
9 time as required in subsection (3) for transmittal to the  
10 committee. The director of commerce shall review the statement  
11 and within 30 days after receipt shall notify the committee of  
12 any additional information pertinent to the committee's review.

13 (6) After ~~its~~ receipt BY THE COMMITTEE of the agency's  
14 letter of transmittal, the committee shall have 2 months in which  
15 to consider the rule. If the committee by a majority vote deter-  
16 mines that added time is needed to consider proposed rules, the  
17 committee may extend the time it has to consider a particular  
18 proposed rule by 1 month to a total of not longer than 3 months.  
19 This subsection, ~~and~~ subsections (2) to (5), AND  
20 SUBSECTIONS (7) TO (12) do not apply to an emergency rule.

21 (7) The committee shall furnish the senate fiscal agency and  
22 the house fiscal agency with a copy of each rule and regulatory  
23 impact statement filed with the committee, as well as a copy of  
24 the agenda identifying the proposed rules to be considered by the  
25 committee. The senate fiscal agency and the house fiscal agency  
26 shall analyze each proposed rule for possible fiscal implications  
27 which, if adopted, would result in additional appropriations in

1 the current fiscal year or commit the legislature to an  
2 appropriation in a future fiscal year. The senate fiscal agency  
3 and the house fiscal agency shall report their findings in writ-  
4 ing to the senate and house appropriations committees and to the  
5 committee before the date of consideration of the proposed rule  
6 by the committee.

7       (8) If the committee approves the proposed rule within the  
8 time period provided by subsection (6), the committee shall  
9 attach a certificate of its approval to all copies of the rule  
10 bearing certificates except 1 and transmit those copies to the  
11 agency.

12       (9) If, within the time period provided by subsection (6),  
13 the committee disapproves the proposed rule or the committee  
14 chairperson certifies an impasse after votes for approval and  
15 disapproval have failed to receive concurrent majorities, the  
16 committee shall immediately report that fact to the legislature  
17 and return the rule to the agency. The agency shall not adopt or  
18 promulgate the rule unless 1 of the following occurs:

19       (a) The legislature adopts a concurrent resolution approving  
20 the rule within 60 days after the committee report has been  
21 received by, and read into the respective journal of, each  
22 house.

23       (b) The committee subsequently approves the rule.

24       (10) If the time permitted by this section expires and the  
25 committee has not taken action under either subsection (8) or (9)  
26 then the committee shall return the proposed rules to the  
27 agency. The chairperson and alternate chairperson shall cause

1 concurrent resolutions approving the rule to be introduced in  
2 both houses OF THE LEGISLATURE simultaneously. ~~The~~ EACH HOUSE  
3 OF THE LEGISLATURE SHALL PLACE THE concurrent ~~resolutions shall~~  
4 ~~be placed~~ RESOLUTION directly on ~~the calendar of each house~~  
5 ITS CALENDAR. The agency shall not adopt or promulgate the rule  
6 unless 1 of the following occurs:

7       (a) The legislature adopts a concurrent resolution approving  
8 the rule within 60 days after introduction by record roll call  
9 vote. The adoption of the concurrent resolution shall require a  
10 majority of the members elected to and serving in each house OF  
11 THE LEGISLATURE.

12       (b) The agency resubmits the proposed rule to the committee  
13 and the committee approves the rule within the time permitted by  
14 this section.

15       (11) An agency may withdraw a proposed rule by leave of the  
16 committee. An agency may resubmit a rule so withdrawn or  
17 returned under subsection (9) with changes following a committee  
18 meeting on the proposed rule or with minor modifications. A  
19 resubmitted rule is a new filing and subject to this section but  
20 is not subject to further notice and hearing as provided in sec-  
21 tions 41 and 42.

22       (12) If the committee approves the proposed rule within the  
23 time period provided by subsection (6), or the legislature adopts  
24 a concurrent resolution approving the rule, the agency, if it  
25 wishes to proceed, shall formally adopt the rule, pursuant to any  
26 applicable statute, and make a written record of the adoption.

1 Certificates of approval and adoption shall be attached to at  
2 least 6 copies of the rule.