



SENATE BILL No. 563

April 1, 1993, Introduced by Senator DILLINGHAM and
referred to the Committee on Government Operations.

A bill to amend sections 41, 42, 44, and 46 of Act No. 306
of the Public Acts of 1969, entitled as amended
"Administrative procedures act of 1969,"
sections 41 and 42 as amended by Act No. 288 of the Public Acts
of 1989, being sections 24.241, 24.242, 24.244, and 24.246 of the
Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 41, 42, 44, and 46 of Act No. 306 of
2 the Public Acts of 1969, sections 41 and 42 as amended by Act
3 No. 288 of the Public Acts of 1989, being sections 24.241,
4 24.242, 24.244, and 24.246 of the Michigan Compiled Laws, are
5 amended to read as follows:

6 Sec. 41. (1) ~~Before~~ EXCEPT AS PROVIDED IN SECTION 44,
7 BEFORE the adoption of a rule, an agency shall give notice of a
8 public hearing and offer a person an opportunity to present data,

1 views, questions, and arguments. The notice shall be given
2 within the time prescribed by any applicable statute, or if none,
3 in the manner prescribed in section 42(1).

4 (2) The notice described in subsection (1) shall include all
5 of the following:

6 (a) A reference to the statutory authority under which the
7 action is proposed.

8 (b) The time and place of the public hearing and a statement
9 of the manner in which data, views, questions, and arguments may
10 be submitted by a person to the agency at other times.

11 (c) A statement of the terms or substance of the proposed
12 rule, a description of the subjects and issues involved, and the
13 proposed effective date of the rule.

14 (3) The agency shall transmit copies of the notice to each
15 person who requested the agency in writing for advance notice of
16 proposed action which may affect the person. The notice shall be
17 by mail, in writing, to the last address specified by the
18 person.

19 (4) The public hearing shall comply with any applicable
20 statute, but is not subject to the provisions governing a con-
21 tested case.

22 (5) The head of the promulgating agency or 1 or more persons
23 designated by the head of the agency ~~—~~ who ~~has~~ HAVE knowledge
24 of the subject matter of the proposed rule ~~—~~ shall be present
25 at the public hearing and shall participate in the discussion of
26 the proposed rule.

1 Sec. 42. (1) ~~At~~ EXCEPT AS PROVIDED IN SECTION 44, AT a
2 minimum, an agency shall publish the notice of public hearing as
3 prescribed in any applicable statute, or if none, the agency
4 shall publish the notice not less than 10 days and not more than
5 60 days before the date of the public hearing in at least 3 news-
6 papers of general circulation in different parts of the state, 1
7 of which shall be in the Upper Peninsula.

8 (2) Additional methods that may be employed by the agency,
9 depending upon the circumstances, include publication in trade,
10 industry, governmental, or professional publications.

11 (3) In addition to the requirements of subsection (1), the
12 agency shall submit a copy of the notice to the legislative serv-
13 ice bureau for publication in the Michigan register. An agency's
14 notice shall be published in the Michigan register not less than
15 30 days and not more than 90 days before the public hearing.

16 Sec. 44. (1) Sections 41 and 42 do not apply to an amend-
17 ment or rescission of a rule ~~which~~ THAT is obsolete or super-
18 seded, or ~~which~~ THAT is required to make obviously needed cor-
19 rections to make the rule conform to an amended or new statute or
20 to accomplish any other solely formal purpose, if a statement to
21 ~~such~~ THAT effect is included in the legislative service bureau
22 certificate of approval of the rule.

23 (2) SECTIONS 41, 42, AND 45(2) THROUGH (12) DO NOT APPLY TO
24 A RULE THAT IS REQUIRED BY FEDERAL LAW AND THAT IS SUBSTANTIALLY
25 SIMILAR TO AN EXISTING FEDERAL RULE. HOWEVER, NOTICE OF THE PRO-
26 POSED RULE SHALL BE PUBLISHED IN THE MICHIGAN REGISTER AT LEAST
27 60 DAYS BEFORE THE SUBMISSION OF THE RULE TO THE SECRETARY OF

1 STATE PURSUANT TO SECTION 46(1). A REASONABLE PERIOD, NOT TO
2 EXCEED 30 DAYS, SHALL BE PROVIDED FOR THE SUBMISSION OF WRITTEN
3 COMMENTS AND VIEWS FOLLOWING PUBLICATION IN THE MICHIGAN
4 REGISTER.

5 (3) FOR PURPOSES OF SUBSECTION (2), "SUBSTANTIALLY SIMILAR"
6 MEANS IDENTICAL, WITH THE EXCEPTION OF STYLE OR FORMAT DIFFER-
7 ENCES NEEDED TO CONFORM TO THIS OR OTHER STATE LAWS.

8 Sec. 46. (1) ~~Te~~ EXCEPT FOR A RULE PROCESSED PURSUANT TO
9 SECTION 44(2), TO promulgate a rule an agency shall file in the
10 office of the secretary of state 3 copies of the rule bearing the
11 required certificates of approval and adoption and true copies of
12 the rule without the certificates. An agency shall not file a
13 rule, except an emergency rule under section 48, until at least
14 10 days after the date of the certificate of approval by the com-
15 mittee or after the legislature adopts a concurrent resolution
16 approving the rule. An agency shall transmit a copy of the rule
17 bearing the required certificates of approval and adoption to the
18 office of the governor at least 10 days before it files the
19 rule.

20 (2) The secretary of state shall ~~indorse~~ ENDORSE the date
21 and hour of filing of rules on the 3 copies of the filing bearing
22 the certificates and shall maintain a file containing 1 copy for
23 public inspection.

24 (3) The secretary of state, as often as he ~~deems~~ OR SHE
25 CONSIDERS it advisable, shall cause to be arranged and bound in a
26 substantial manner the rules hereafter filed in his OR HER office
27 with their attached certificates and published in a supplement to

1 the Michigan administrative code. ~~He~~ THE SECRETARY OF STATE
2 shall certify under his OR HER hand and seal of the state on the
3 frontispiece of each volume that it contains all of the rules
4 filed and published for a specified period. The rules, when so
5 bound and certified, shall be kept in the office of the secretary
6 of state and no further record ~~thereof~~ OF THE RULES is required
7 to be kept. The bound rules are subject to public inspection.

8 (4) TO PROMULGATE A RULE PROCESSED PURSUANT TO
9 SECTION 44(2), AN AGENCY, AFTER THE PERIOD PROVIDED FOR WRITTEN
10 COMMENTS, SHALL FILE IN THE OFFICE OF THE SECRETARY OF STATE 3
11 COPIES OF THE RULE ALONG WITH THE APPROVAL OF THE LEGISLATIVE
12 SERVICE BUREAU AND THE DEPARTMENT OF ATTORNEY GENERAL.