



HOUSE BILL No. 4981

June 16, 1995, Introduced by Reps. Olshove and Cropsey and referred to the Committee on Public Utilities.

A bill to amend sections 44 and 45 of Act No. 306 of the Public Acts of 1969, entitled as amended "Administrative procedures act of 1969," as amended by Act No. 141 of the Public Acts of 1993, being sections 24.244 and 24.245 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 44 and 45 of Act No. 306 of the Public
2 Acts of 1969, as amended by Act No. 141 of the Public Acts of
3 1993, being sections 24.244 and 24.245 of the Michigan Compiled
4 Laws, are amended to read as follows:

5 Sec. 44. (1) Sections 41 and 42 do not apply to an amend-
6 ment or rescission of a rule that is obsolete or superseded, or
7 that is required to make obviously needed corrections to make the
8 rule conform to an amended or new statute or to accomplish any
9 other solely formal purpose, if a statement to that effect is

1 included in the legislative service bureau certificate of
2 approval of the rule.

3 (2) Sections 41 and 42 do not apply to ~~the~~ THE FOLLOWING:

4 (A) A rule that is promulgated under the Michigan occupa-
5 tional safety and health act, Act No. 154 of the Public Acts of
6 1974, being sections 408.1001 to 408.1094 of the Michigan
7 Compiled Laws, that is substantially similar to an existing fed-
8 eral standard that has been adopted or promulgated under the
9 occupational safety and health act of 1970, Public Law 91-596, 84
10 Stat. 1590. ~~However, notice~~

11 (B) A RULE PROMULGATED UNDER ACT NO. 165 OF THE PUBLIC ACTS
12 OF 1969, BEING SECTIONS 483.151 TO 483.162 OF THE MICHIGAN
13 COMPILED LAWS, THAT IS SUBSTANTIALLY SIMILAR TO AN EXISTING FED-
14 ERAL STANDARD THAT HAS BEEN ADOPTED OR PROMULGATED UNDER THE FED-
15 ERAL PIPELINE SAFETY LAWS, CHAPTER 601 OF TITLE 49 OF THE UNITED
16 STATES CODE, 49 U.S.C. 60101 TO 60125.

17 (3) NOTICE of ~~the~~ A proposed rule DESCRIBED IN
18 SUBSECTION (2) shall be published in the Michigan register at
19 least 60 days before the submission of the rule to the secretary
20 of state pursuant to section 46(4). A reasonable period, not to
21 exceed 30 days, shall be provided for the submission of written
22 comments and views following publication in the Michigan
23 register.

24 (4) ~~(3) For purposes of subsection (2)~~ AS USED IN THIS
25 SECTION, "substantially similar" means identical, with the excep-
26 tion of style or format differences needed to conform to this or

1 other state laws, as determined by the department of attorney
2 general pursuant to section 45(1).

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

9 (2) Except as provided in subsection (13), after publication
10 of the proposed rule in the Michigan register and after notice is
11 given as provided in this act and before the agency proposing the
12 rule has formally adopted the rule, the agency shall transmit by
13 letter to the committee copies of the rule bearing certificates
14 of approval from the legislative service bureau and the depart-
15 ment of attorney general and copies of the rule without
16 certificates. The agency transmittal shall be received by the
17 committee within 2 years after the date of the last public hear-
18 ing on the proposed rule unless the proposed rule is a resubmis-
19 sion under subsection (11). The agency shall include with the
20 letter of transmittal a regulatory impact statement on a 1-page
21 form provided by the committee. The statement shall provide
22 estimates of the impact of the proposed rules upon all of the
23 following:

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

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

1 (c) The taxpayers, consumers, industry or trade groups,
2 small business, or other applicable groups affected by the pro-
3 posed rule.

4 (3) Except as provided in subsection (13) and section 40(4),
5 if the regulatory impact statement discloses an impact on small
6 businesses, the agency shall include with the letter of transmit-
7 tal a small business economic impact statement in a form pre-
8 scribed by the committee. A small business economic impact
9 statement shall contain all of the following with respect to the
10 proposed rules:

11 (a) The nature of any reports and the estimated cost of
12 their preparation by small businesses that would be required to
13 comply with the proposed rules.

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

17 (c) The nature and estimated cost of any legal, consulting,
18 and accounting services that small businesses would incur in com-
19 plying with the proposed rules.

20 (d) A statement regarding whether the proposed rules will
21 have a disproportionate impact on small businesses because of the
22 size of those businesses.

23 (e) The ability of small businesses to absorb the costs
24 estimated under subdivisions (a) to (c) without suffering eco-
25 nomic harm and without adversely affecting competition in the
26 marketplace.

1 (f) The cost, if any, to the agency of administering or
2 enforcing a rule that exempts or sets lesser standards for
3 compliance by small businesses.

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

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

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

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

16 (5) The agency shall transmit a copy of the small business
17 economic impact statement to the director of commerce at the same
18 time as required in subsection (3) for transmittal to the
19 committee. The director of commerce shall review the statement
20 and within 30 days after receipt shall notify the committee of
21 any additional information pertinent to the committee's review.

22 (6) After receipt by the committee of the agency's letter of
23 transmittal, the committee has 2 months in which to consider the
24 rule. If the committee by a majority vote determines that added
25 time is needed to consider proposed rules, the committee may
26 extend the time it has to consider a particular proposed rule by
27 1 month to a total of not longer than 3 months. This subsection,

1 subsections (2) to (5), and subsections (7) to (12) do not apply
2 to an emergency rule.

3 (7) The committee shall furnish the senate fiscal agency and
4 the house fiscal agency with a copy of each rule and regulatory
5 impact statement filed with the committee, as well as a copy of
6 the agenda identifying the proposed rules to be considered by the
7 committee. The senate fiscal agency and the house fiscal agency
8 shall analyze each proposed rule for possible fiscal implications
9 which, if adopted, would result in additional appropriations in
10 the current fiscal year or commit the legislature to an appropri-
11 ation in a future fiscal year. The senate fiscal agency and the
12 house fiscal agency shall report their findings in writing to the
13 senate and house appropriations committees and to the committee
14 before the date of consideration of the proposed rule by the
15 committee.

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

21 (9) If, within the time period provided by subsection (6),
22 the committee disapproves the proposed rule or the committee
23 chairperson certifies an impasse after votes for approval and
24 disapproval have failed to receive concurrent majorities, the
25 committee shall immediately report that fact to the legislature
26 and return the rule to the agency. The agency shall not adopt or
27 promulgate the rule unless 1 of the following occurs:

1 (a) The legislature adopts a concurrent resolution approving
2 the rule within 60 days after the committee report has been
3 received by, and read into the respective journal of, each
4 house.

5 (b) The committee subsequently approves the rule.

6 (10) If the time permitted by this section expires and the
7 committee has not taken action under either subsection (8) or
8 (9), then the committee shall return the proposed rules to the
9 agency. The chairperson and alternate chairperson shall cause
10 concurrent resolutions approving the rule to be introduced in
11 both houses of the legislature simultaneously. Each house of the
12 legislature shall place the concurrent resolution directly on its
13 calendar. The agency shall not adopt or promulgate the rule
14 unless 1 of the following occurs:

15 (a) The legislature adopts a concurrent resolution approving
16 the rule within 60 days after introduction by record roll call
17 vote. The adoption of the concurrent resolution requires a
18 majority of the members elected to and serving in each house of
19 the legislature.

20 (b) The agency resubmits the proposed rule to the committee
21 and the committee approves the rule within the time permitted by
22 this section.

23 (11) An agency may withdraw a proposed rule by leave of the
24 committee. An agency may resubmit a rule so withdrawn or
25 returned under subsection (9) with changes following a committee
26 meeting on the proposed rule or with minor modifications. A
27 resubmitted rule is a new filing and subject to this section, but

1 is not subject to further notice and hearing as provided in
2 sections 41 and 42.

3 (12) If the committee approves the proposed rule within the
4 time period provided by subsection (6), or the legislature adopts
5 a concurrent resolution approving the rule, the agency, if it
6 wishes to proceed, shall formally adopt the rule pursuant to any
7 applicable statute and make a written record of the adoption.
8 Certificates of approval and adoption shall be attached to at
9 least 6 copies of the rule.

10 (13) Subsections (2) through (12) do not apply to ~~the~~ THE
11 FOLLOWING:

12 (A) A rule that is promulgated under the Michigan occupa-
13 tional safety and health act, Act No. 154 of the Public Acts of
14 1974, being sections 408.1001 to 408.1094 of the Michigan
15 Compiled Laws, that is substantially similar to an existing fed-
16 eral standard that has been adopted or promulgated under the
17 occupational safety and health act of 1970, Public Law 91-596, 84
18 Stat. 1590.

19 (B) A RULE THAT IS PROMULGATED UNDER ACT NO. 165 OF THE
20 PUBLIC ACTS OF 1969, BEING SECTIONS 483.151 TO 483.162 OF THE
21 MICHIGAN COMPILED LAWS, THAT IS SUBSTANTIALLY SIMILAR TO AN
22 EXISTING FEDERAL STANDARD THAT HAS BEEN ADOPTED OR PROMULGATED
23 UNDER THE FEDERAL PIPELINE SAFETY LAWS, CHAPTER 601 OF TITLE 49
24 OF THE UNITED STATES CODE, 49 U.S.C. 60101 TO 60125.