

# HOUSE BILL No. 5816

April 30, 1998, Introduced by Reps. LaForge, Goschka, Voorhees, DeVuyst, Hale, Hanley, Cherry, Martinez, Godchaux, Gire, Scott, Schauer, Price, Brater, Scranton and Bogardus and referred to the Committee on Human Services and Children.

A bill to amend 1969 PA 306, entitled  
"Administrative procedures act of 1969,"  
by amending section 45 (MCL 24.245), as amended by 1993 PA 141.

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

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

7       (2) Except as provided in subsection ~~—(13)—~~ (14), after pub-  
8 lication of the proposed rule in the Michigan register and after  
9 notice is given as provided in this act and before the agency  
10 proposing the rule has formally adopted the rule, the agency  
11 shall transmit by letter to the committee copies of the rule

1 bearing certificates of approval from the legislative service  
2 bureau and the department of attorney general and copies of the  
3 rule without certificates. The agency transmittal shall be  
4 received by the committee within 2 years after the date of the  
5 last public hearing on the proposed rule unless the proposed rule  
6 is a resubmission under subsection ~~—(11)—~~ (12). The agency shall  
7 include with the letter of transmittal a regulatory impact state-  
8 ment on a 1-page form provided by the committee. The statement  
9 shall provide estimates of the impact of the proposed rules upon  
10 all of the following:

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

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

15 (c) The taxpayers, consumers, industry or trade groups,  
16 small business, or other applicable groups affected by the pro-  
17 posed rule.

18 (D) CHILDREN AND THEIR FAMILIES IN THIS STATE WHO ARE  
19 AFFECTED BY THE PROPOSED RULE.

20 (3) Except as provided in subsection ~~—(13)—~~ (14) and section  
21 40(4), if the regulatory impact statement discloses an impact on  
22 small businesses, the agency shall include with the letter of  
23 transmittal a small business economic impact statement in a form  
24 prescribed by the committee. A small business economic impact  
25 statement shall contain all of the following with respect to the  
26 proposed rules:

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

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

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

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

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

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

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

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

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

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

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

13       (6) EXCEPT AS PROVIDED IN SUBSECTION (14), IF THE REGULATORY  
14 IMPACT STATEMENT DISCLOSES AN IMPACT ON CHILDREN IN THIS STATE,  
15 THE AGENCY SHALL INCLUDE WITH THE LETTER OF TRANSMITTAL A  
16 CHILDREN'S IMPACT STATEMENT IN A FORM PRESCRIBED BY THE  
17 COMMITTEE. A CHILDREN'S IMPACT STATEMENT SHALL CONTAIN THE PUR-  
18 POSE OF THE PROPOSED RULE, THE EFFECT THE PROPOSED RULE WOULD  
19 HAVE ON CHILDREN AND THEIR FAMILIES, AND ANY OTHER INFORMATION  
20 THE AGENCY CONSIDERS APPROPRIATE. THE AGENCY SHALL TRANSMIT A  
21 COPY OF THE CHILDREN'S IMPACT STATEMENT TO THE CHILDREN'S OMBUDS-  
22 MAN CREATED BY THE CHILDREN'S OMBUDSMAN ACT, 1994 PA 204, MCL  
23 722.921 TO 722.935, AT THE SAME TIME AS REQUIRED IN SUBSECTION  
24 (3) FOR TRANSMITTAL TO THE COMMITTEE. THE CHILDREN'S OMBUDSMAN  
25 SHALL REVIEW THE STATEMENT AND WITHIN 30 DAYS AFTER RECEIPT SHALL  
26 NOTIFY THE COMMITTEE OF ANY ADDITIONAL INFORMATION PERTINENT TO  
27 THE COMMITTEE'S REVIEW.

1       (7) ~~-(6)-~~ After receipt by the committee of the agency's  
2 letter of transmittal, the committee has 2 months in which to  
3 consider the rule. If the committee by a majority vote deter-  
4 mines that added time is needed to consider proposed rules, the  
5 committee may extend the time it has to consider a particular  
6 proposed rule by 1 month to a total of not longer than 3 months.  
7 This subsection, subsections (2) to ~~-(5)-~~ (6), and subsections  
8 ~~-(7)-~~ (8) to ~~-(12)-~~ (13) do not apply to an emergency rule.

9       (8) ~~-(7)-~~ The committee shall furnish the senate fiscal  
10 agency and the house fiscal agency with a copy of each rule and  
11 regulatory impact statement filed with the committee, as well as  
12 a copy of the agenda identifying the proposed rules to be consid-  
13 ered by the committee. The senate fiscal agency and the house  
14 fiscal agency shall analyze each proposed rule for possible  
15 fiscal implications which, if adopted, would result in additional  
16 appropriations in the current fiscal year or commit the legisla-  
17 ture to an appropriation in a future fiscal year. The senate  
18 fiscal agency and the house fiscal agency shall report their  
19 findings in writing to the senate and house appropriations com-  
20 mittees and to the committee before the date of consideration of  
21 the proposed rule by the committee.

22       (9) ~~-(8)-~~ If the committee approves the proposed rule within  
23 the time period provided by subsection ~~-(6)-~~ (7), the committee  
24 shall attach a certificate of its approval to all copies of the  
25 rule bearing certificates except 1 and transmit those copies to  
26 the agency.

1       (10) ~~-(9)-~~ If, within the time period provided by subsection  
2 ~~-(6)-~~ (7), the committee disapproves the proposed rule or the  
3 committee chairperson certifies an impasse after votes for  
4 approval and disapproval have failed to receive concurrent major-  
5 ities, the committee shall immediately report that fact to the  
6 legislature and return the rule to the agency. The agency shall  
7 not adopt or promulgate the rule unless 1 of the following  
8 occurs:

9       (a) The legislature adopts a concurrent resolution approving  
10 the rule within 60 days after the committee report has been  
11 received by, and read into the respective journal of, each  
12 house.

13       (b) The committee subsequently approves the rule.

14       (11) ~~-(10)-~~ If the time permitted by this section expires  
15 and the committee has not taken action under either subsection  
16 ~~-(8)-or-~~ (9) OR (10), then the committee shall return the pro-  
17 posed rules to the agency. The chairperson and alternate chair-  
18 person shall cause concurrent resolutions approving the rule to  
19 be introduced in both houses of the legislature simultaneously.  
20 Each house of the legislature shall place the concurrent resolu-  
21 tion directly on its calendar. The agency shall not adopt or  
22 promulgate the rule unless 1 of the following occurs:

23       (a) The legislature adopts a concurrent resolution approving  
24 the rule within 60 days after introduction by record roll call  
25 vote. The adoption of the concurrent resolution requires a  
26 majority of the members elected to and serving in each house of  
27 the legislature.

1 (b) The agency resubmits the proposed rule to the committee  
2 and the committee approves the rule within the time permitted by  
3 this section.

4 (12) ~~-(11)-~~ An agency may withdraw a proposed rule by leave  
5 of the committee. An agency may resubmit a rule so withdrawn or  
6 returned under subsection ~~-(9)-~~ (10) with changes following a  
7 committee meeting on the proposed rule or with minor  
8 modifications. A resubmitted rule is a new filing and subject to  
9 this section, but is not subject to further notice and hearing as  
10 provided in sections 41 and 42.

11 (13) ~~-(12)-~~ If the committee approves the proposed rule  
12 within the time period provided by subsection ~~-(6)-~~ (7), or the  
13 legislature adopts a concurrent resolution approving the rule,  
14 the agency, if it wishes to proceed, shall formally adopt the  
15 rule pursuant to any applicable statute and make a written record  
16 of the adoption. Certificates of approval and adoption shall be  
17 attached to at least 6 copies of the rule.

18 (14) ~~-(13)-~~ Subsections (2) through ~~-(12)-~~ (13) do not apply  
19 to a rule that is promulgated under the Michigan occupational  
20 safety and health act, ~~Act No. 154 of the Public Acts of 1974,~~  
21 ~~being sections 408.1001 to 408.1094 of the Michigan Compiled~~  
22 ~~Laws~~ 1974 PA 154, MCL 408.1001 TO 408.1094, that is substan-  
23 tially similar to an existing federal standard that has been  
24 adopted or promulgated under the occupational safety and health  
25 act of 1970, Public Law 91-596, 84 Stat. 1590.