

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 877 (Substitute S-1 as reported)
Senate Bills 878 and 879 (as reported without amendment)
Sponsor: Senator Bev Hammerstrom (Senate Bill 877)
 Senator Glenn D. Steil (Senate Bill 878)
 Senator Walter H. North (Senate Bill 879)
Committee: Government Operations

CONTENT

Senate Bills 877 (S-1) would amend the Administrative Procedures Act (APA) to:

- Create the Office of Regulatory Reform (ORR) as a Type 1 agency within the Department of Management and Budget, and provide that the ORR would have the powers and duties set forth in Executive Order 1995-6 (which created the ORR in the Governor's office).
- Allow the ORR to prescribe procedures and standards for processing administrative rules.
- Revise the role of the Joint Committee on Administrative Rules (JCAR) and the Legislature in the process of approving or disapproving rules (as described below).
- Require an agency to file a request for rule-making with the ORR before initiating any changes or additions to rules, and prohibit the agency from proceeding with the processing of a rule without approval of the ORR.
- Require the ORR, after granting approval to hold a public hearing, to give a copy of the proposed rule to JCAR; and require JCAR to give copies to its members and members of the Senate and House standing committees dealing with the subject matter of the proposed rule.
- Allow JCAR to meet to consider the proposed rule, take testimony, and give the agency an informal response.
- Allow the agency to submit the proposed rule to the Legislative Service Bureau (LSB) for certification if it were approved by the ORR; and require the ORR to approve the rule if it considered the rule to be legal.
- Require the agency to prepare a report containing a synopsis of comments from the public hearing and describing any changes made, and to prepare a regulatory impact statement (rather than the small business economic impact statement currently required).
- Delete the Legislature's ability to rescind emergency rules by a concurrent resolution.
- Require agencies to give notice of guidelines to the ORR and JCAR; and require JCAR to notify its members and members of Senate and House standing committees.
- Establish procedures for the adoption of a standard form contract or policy that would have been considered a rule but for an exemption from rule-making.
- Transfer to the ORR, from the LSB, the responsibility to publish the Michigan Register, to prepare annual supplements to the Michigan Administrative Code, and to perform editorial work for those publications.

Currently, the APA requires an agency to submit a proposed rule to JCAR, which has two to three months to consider the rule; if JCAR approves the rule, it must return the rule to the agency for formal adoption. If JCAR disapproves the rule or reaches an impasse, the agency may not adopt the rule unless the Legislature adopts a concurrent resolution approving the rule or JCAR subsequently approves it. If JCAR fails to act within the time allowed, a concurrent resolution approving the rule must be introduced in the Senate and House, and the agency may not adopt the rule unless the Legislature adopts the concurrent resolution or JCAR subsequently approves the rule. The bill would delete these provisions.

Under the bill, JCAR would have 21 days to consider a rule and file a notice of objection (on specific grounds). If a notice of objection were not filed, the ORR could file the rule with the Secretary of State (SOS) and the rule would take effect after seven days. If a notice of objection were filed, bills would have to be introduced in the Senate and the House and placed directly on the calendar. The bills would have to rescind the rule upon its effective date; repeal the statutory provision under which the rule was authorized; or stay the rule's effective date for up to one year. The notice of objection would prevent the ORR from filing the rule with the SOS for a 21-day period (which would be delayed if the Legislature were not in session). If the bills were defeated or

not adopted within the 21-day period, the ORR could file the rule with the SOS. If the legislation were approved, the rule would not become effective unless the Governor vetoed the legislation.

Senate Bill 878 would amend Public Act 193 of 1970 (which provides for the compilation of the general laws of the State and the compilation and revision of the State administrative rules) to transfer from the Legislative Council to the Office of Regulatory Reform the responsibilities for providing compilations of administrative rules promulgated under the APA, providing for an orderly revision of the Michigan Administrative Code, and examining copies of the compilation before they are printed and bound and certifying their compliance with the Act.

Senate Bill 879 would amend the Legislative Council Act to provide for the Office of Regulatory Reform, rather than the Legislative Council or the Legislative Service Bureau, to administer the Michigan Register Fund; determine the price for copies of the Michigan Register; and (beginning January 1, 2001) make the text of the Michigan Register available on the Internet. In addition, the Act requires the Department of Management and Budget (DMB) to sell copies of the compiled statutes and the public and local acts at a price that does not exceed the actual cost of preparation, printing, and distribution. The bill also would require the DMB to sell electronic access to those publications at such a price.

The three bills are tie-barred to each other and would take effect January 1, 2000.

MCL 24.205 et al. (S.B. 877)
4.1201-4.1203 (S.B. 878)
8.41-8.48 (S.B. 879)

Legislative Analyst: S. Lowe

FISCAL IMPACT

Senate Bill 877 (S-1): The bill would have no net fiscal impact on State government and no fiscal impact on local units of government.

Senate Bill 878: The following revenue was generated from Administrative Code annual supplements: FY 1995-96: \$40,815; FY 1996-97: \$40,742; FY 1997-98: \$50,872.

Senate Bill 879: The following revenue was deposited in the Michigan Register Fund over three fiscal years: FY 1995-96: \$100,773; FY 1996-97: \$108,953; FY 1997-98: \$85,704.

Date Completed: 11-9-99

Fiscal Analyst: B. Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.