

REPRINT

**SUBSTITUTE FOR
SENATE BILL NO. 877**

(As Passed the Senate November 10, 1999)

A bill to amend 1969 PA 306, entitled
"Administrative procedures act of 1969,"
by amending the title and sections 5, 7, 7a, 8, 24, 25, 33, 36,
40, 41a, 42, 44, 45, 46, 47, 48, 52, 53, 55, 56, 57, 58, and 59
(MCL 24.205, 24.207, 24.207a, 24.208, 24.224, 24.225, 24.233,
24.236, 24.240, 24.241a, 24.242, 24.244, 24.245, 24.246, 24.247,
24.248, 24.252, 24.253, 24.255, 24.256, 24.257, 24.258, and
24.259), the title as amended by 1993 PA 7, sections 5, 24, 52,
and 56 as amended by 1982 PA 413, section 7 as amended by 1996
PA 489, sections 7a, 40, and 53 as added by 1984 PA 273, sections
8 and 57 as amended by 1988 PA 333, sections 42, 44, 45, and 46
as amended by 1993 PA 141, sections 48, 55, and 58 as amended by
1986 PA 292, and section 59 as amended by 1995 PA 178, and by
adding sections 28, 34, 39, 39a, 45a, and 54.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to provide for the effect, processing, promulgation,
3 publication, and inspection of state agency rules, determina-
4 tions, and other matters; to provide for the printing, publish-
5 ing, and distribution of ~~the Michigan register~~ CERTAIN
6 PUBLICATIONS; to provide for state agency administrative proce-
7 dures and contested cases and appeals from contested cases in
8 licensing and other matters; TO CREATE AND ESTABLISH CERTAIN COM-
9 MITTEES AND OFFICES; to provide for declaratory judgments as to
10 rules; to repeal certain acts and parts of acts; and to repeal
11 certain parts of this act on a specific date.

12 Sec. 5. (1) "License" includes the whole or part of an
13 agency permit, certificate, approval, registration, charter, or
14 similar form of permission required by law, but does not include
15 a license required solely for revenue purposes, or a license or
16 registration issued under ~~Act No. 300 of the Public Acts of~~
17 ~~1949, as amended, being sections 257.1 to 257.923 of the Michigan~~
18 ~~Compiled Laws~~ THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.1
19 TO 257.923.

20 (2) "Licensing" includes agency activity involving the
21 grant, denial, renewal, suspension, revocation, annulment, with-
22 drawal, recall, cancellation, or amendment of a license.

23 (3) "Michigan register" means the publication described in
24 section 8.

1 (4) "NOTICE OF OBJECTION" MEANS THE DOCUMENT ADOPTED BY THE
2 COMMITTEE THAT INDICATES THE COMMITTEE'S FORMAL OBJECTION TO A
3 PROPOSED RULE.

4 (5) ~~-(4)-~~ "Party" means a person or agency named, admitted,
5 or properly seeking and entitled of right to be admitted, as a
6 party in a contested case.

7 (6) ~~-(5)-~~ "Person" means an individual, partnership, associ-
8 ation, corporation, governmental subdivision, or public or pri-
9 vate organization of any kind other than the agency engaged in
10 the particular processing of a rule, declaratory ruling, or con-
11 tested case.

12 (7) ~~-(6)-~~ "Processing of a rule" means the action required
13 or authorized by this act regarding a rule which is to be promul-
14 gated, including the rule's adoption, and ending with the rule's
15 promulgation.

16 (8) ~~-(7)-~~ "Promulgation of a rule" means that step in the
17 processing of a rule consisting of the filing of a rule with the
18 secretary of state.

19 Sec. 7. "Rule" means an agency regulation, statement, stan-
20 dard, policy, ruling, or instruction of general applicability
21 that implements or applies law enforced or administered by the
22 agency, or that prescribes the organization, procedure, or prac-
23 tice of the agency, including the amendment, suspension, or
24 rescission of the law enforced or administered by the agency.
25 Rule does not include any of the following:

26 (a) A resolution or order of the state administrative
27 board.

1 (b) A formal opinion of the attorney general.

2 (c) A rule or order establishing or fixing rates or
3 tariffs.

4 (d) A rule or order pertaining to game and fish and promul-
5 gated under ~~part 411 (protection and preservation of fish, game,~~
6 ~~and birds)~~ PARTS 401, 411, AND 487 of the natural resources and
7 environmental protection act, ~~Act No. 451 of the Public Acts of~~
8 ~~1994, being sections 324.41101 to 324.41105 of the Michigan~~
9 ~~Compiled Laws, part 487 (sport fishing) of Act No. 451 of the~~
10 ~~Public Acts of 1994, being sections 324.48701 to 324.48740 of the~~
11 ~~Michigan Compiled Laws, and part 401 (wildlife conservation) of~~
12 ~~Act No. 451 of the Public Acts of 1994, being sections 324.40101~~
13 ~~to 324.40119 of the Michigan Compiled Laws~~ 1994 PA 451,
14 MCL 324.40101 TO 324.40119, 324.41101 TO 324.41105, AND 324.48701
15 TO 324.48740.

16 (e) A rule relating to the use of streets or highways, the
17 substance of which is indicated to the public by means of signs
18 or signals.

19 (f) A determination, decision, or order in a contested
20 case.

21 (g) An intergovernmental, interagency, or intra-agency memo-
22 randum, directive, or communication that does not affect the
23 rights of, or procedures and practices available to, the public.

24 (h) A form with instructions, an interpretive statement, a
25 guideline, an informational pamphlet, or other material that in
26 itself does not have the force and effect of law but is merely
27 explanatory.

1 (i) A declaratory ruling or other disposition of a
2 particular matter as applied to a specific set of facts
3 involved.

4 (j) A decision by an agency to exercise or not to exercise a
5 permissive statutory power, although private rights or interests
6 are affected.

7 (k) Unless another statute requires a rule to be promulgated
8 under this act, a rule or policy that only concerns the inmates
9 of a state correctional facility and does not directly affect
10 other members of the public, except that a rule that only con-
11 cerns inmates which was promulgated before December 4, 1986,
12 shall be considered a rule and shall remain in effect until
13 rescinded but shall not be amended. As used in this subdivision,
14 "state correctional facility" means a facility or institution
15 that houses an inmate population under the jurisdiction of the
16 department of corrections.

17 (l) All of the following, after final approval by the cer-
18 tificate of need commission or the statewide health coordinating
19 council under section 22215 or 22217 of the public health code,
20 ~~Act No. 368 of the Public Acts of 1978, being sections 333.22215~~
21 ~~and 333.22217 of the Michigan Compiled Laws~~ 1978 PA 368,
22 MCL 333.22215 AND 333.22217:

23 (i) The designation, deletion, or revision of covered medi-
24 cal equipment and covered clinical services.

25 (ii) Certificate of need review standards.

26 (iii) Data reporting requirements and criteria for
27 determining health facility viability.

1 (iv) Standards used by the department of ~~public~~ COMMUNITY
2 health in designating a regional certificate of need review
3 agency.

4 (v) The modification of the 100 licensed bed limitation for
5 short-term nursing care programs set forth in section 22210 of
6 ~~Act No. 368 of the Public Acts of 1978, being section 333.22210~~
7 ~~of the Michigan Compiled Laws~~ THE PUBLIC HEALTH CODE, 1978
8 PA 368, MCL 333.22210.

9 (m) A policy developed by the family independence agency
10 under section 6(3) of the social welfare act, ~~Act No. 280 of the~~
11 ~~Public Acts of 1939, being section 400.6 of the Michigan Compiled~~
12 ~~Laws~~ 1939 PA 250, MCL 400.6, setting income and asset limits,
13 types of income and assets to be considered for eligibility, and
14 payment standards for administration of assistance programs under
15 that act.

16 (n) A policy developed by the family independence agency
17 under section 6(4) of ~~Act No. 280 of the Public Acts of 1939,~~
18 ~~being section 400.6 of the Michigan Compiled Laws~~ THE SOCIAL
19 WELFARE ACT, 1939 PA 280, MCL 400.6, to implement requirements
20 that are mandated by federal statute or regulations as a condi-
21 tion of receipt of federal funds.

22 ~~(o) Until the expiration of 12 months after the effective~~
23 ~~date of this subdivision, a regulation issued by the family inde-~~
24 ~~pendence agency under section 6(2) of Act No. 280 of the Public~~
25 ~~Acts of 1939 setting standards and policies for the administra-~~
26 ~~tion of programs under that act. Upon the expiration of 12~~
27 ~~months after the effective date of this subdivision, regulations~~

1 ~~described in this subdivision are not binding and effective~~
2 ~~unless processed as emergency rules under section 48 or promul-~~
3 ~~gated in accordance with this act. This subdivision does not~~
4 ~~apply to policies permanently exempted under subdivisions (m) and~~
5 ~~(n).—~~

6 (O) ~~—(p) Beginning on the effective date of the amendatory~~
7 ~~act that added this subdivision and until 3 years after that~~
8 ~~date, the~~ THE provisions of an agency's contract with a public
9 or private entity including, but not limited to, the provisions
10 of an agency's standard form contract.

11 (P) A POLICY DEVELOPED BY THE DEPARTMENT OF COMMUNITY HEALTH
12 UNDER THE AUTHORITY GRANTED IN SECTION 111A OF THE SOCIAL WELFARE
13 ACT, 1939 PA 280, MCL 400.111A, TO IMPLEMENT POLICIES AND PROCE-
14 DURES NECESSARY TO OPERATE ITS HEALTH CARE PROGRAMS IN ACCORDANCE
15 WITH AN APPROVED STATE PLAN OR IN COMPLIANCE WITH STATE STATUTE.

16 Sec. 7a. ~~—(1)—~~ "Small business" means a business concern
17 incorporated or doing business in this state, including the
18 affiliates of the business concern, which is independently owned
19 and operated and which employs fewer than 250 full-time employees
20 or which has gross annual sales of less than \$6,000,000.00.

21 ~~—(2)— "Small business economic impact statement" means a~~
22 ~~statement prepared by a state agency which meets the requirements~~
23 ~~of section 45(3).—~~

24 Sec. 8. (1) The ~~—legislative service bureau—~~ OFFICE OF
25 REGULATORY REFORM shall publish the Michigan register AT LEAST
26 ONCE each month. The Michigan register shall contain all of the
27 following:

1 (a) Executive orders and executive reorganization orders.

2 (b) On a cumulative basis, the numbers and subject matter of
3 the enrolled senate and house bills signed into law by the gover-
4 nor during the calendar year and the corresponding public act
5 numbers.

6 (c) On a cumulative basis, the numbers and subject matter of
7 the enrolled senate and house bills vetoed by the governor during
8 the calendar year.

9 (d) Proposed administrative rules.

10 ~~-(e) Small business economic impact statements on proposed~~
11 ~~rules as required by section 45.~~

12 (E) ~~-(f)-~~ Notices of public hearings on proposed administra-
13 tive rules.

14 (F) ~~-(g)-~~ Administrative rules filed with the secretary of
15 state.

16 (G) ~~-(h)-~~ Emergency rules filed with the secretary of
17 state.

18 (H) ~~-(i)-~~ Notice of proposed and adopted agency guidelines.

19 (I) ~~-(j)-~~ Other official information considered necessary or
20 appropriate by the ~~legislative service bureau~~ OFFICE OF REGULA-
21 TORY REFORM.

22 (J) ~~-(k)-~~ Attorney general opinions.

23 (K) ~~-(l)-~~ All of the items listed in section 7(l) after
24 final approval by the certificate of need commission or the
25 statewide health coordinating council under section 22215 or
26 22217 of the public health code, ~~Act No. 368 of the Public Acts~~

1 of 1978, being sections 333.22215 and 333.22217 of the Michigan
2 Compiled Laws 1978 PA 368, MCL 333.22215 AND 333.22217.

3 (2) The ~~legislative service bureau~~ OFFICE OF REGULATORY
4 REFORM shall publish a cumulative index for the Michigan
5 register.

6 (3) The Michigan register shall be available for public sub-
7 scription at a fee reasonably calculated to cover publication and
8 distribution costs.

9 (4) If publication of an agency's proposed rule ~~—~~ OR
10 guideline ~~—, or small business economic impact statement~~ or an
11 item described in subsection ~~(1)(I)~~ (1)(K) would be unreason-
12 ably expensive or lengthy, the ~~legislative service bureau~~
13 OFFICE OF REGULATORY REFORM may publish a brief synopsis of the
14 proposed rule ~~—~~, OR guideline ~~—, small business impact~~
15 statement, ~~—~~ or item described in subsection ~~(1)(I)~~ (1)(K),
16 including information on how to obtain a complete copy of the
17 proposed rule ~~—~~, OR guideline ~~—, small business impact~~
18 statement, ~~—~~ or item described in subsection ~~(1)(I)~~ (1)(K) from
19 the agency at no cost.

20 (5) An agency shall transmit a copy of the ~~small business~~
21 economic impact statement, together with the applicable proposed
22 rules and notice of public hearing ~~—~~, to the ~~legislative serv-~~
23 ice bureau OFFICE OF REGULATORY REFORM for publication in the
24 Michigan register.

25 Sec. 24. (1) Before the adoption of a guideline, an agency
26 shall give notice of the proposed guideline to the ~~joint~~
27 committee, ~~on administrative rules, the legislative service~~

1 ~~bureau,~~ the office of ~~the governor~~ REGULATORY REFORM, and each
2 person who requested the agency in writing for advance notice of
3 proposed action which may affect the person. THE COMMITTEE SHALL
4 PROVIDE THE NOTICE OF THE PROPOSED GUIDELINE NOT LATER THAN THE
5 NEXT BUSINESS DAY AFTER RECEIPT OF THE NOTICE FROM THE AGENCY TO
6 MEMBERS OF THE COMMITTEE AND TO MEMBERS OF THE STANDING COMMIT-
7 TEES OF THE SENATE AND HOUSE OF REPRESENTATIVES THAT DEAL WITH
8 THE SUBJECT MATTER OF THE PROPOSED GUIDELINE. The notice shall be
9 given by mail, in writing, to the last address specified by the
10 person. A request for notice is renewable each December.

11 (2) The notice required by subsection (1) shall include all
12 of the following:

13 (a) A statement of the terms or substance of the proposed
14 guideline, a description of the subjects and issues involved, and
15 the proposed effective date of the guideline.

16 (b) A statement that the addressee may express any views or
17 arguments regarding the proposed guideline or the guideline's
18 effect on a person.

19 (c) The address to which written comments may be sent and
20 the date by which comments shall be mailed, which date shall not
21 be less than ~~60~~ 35 days from the date of the mailing of the
22 notice.

23 (d) A reference to the specific statutory provision about
24 which the proposed guideline states a policy.

25 Sec. 25. When adopted, a guideline is a public record.
26 Copies of guidelines shall be sent to the ~~joint~~ committee, ~~on~~
27 ~~administrative rules, the legislative service bureau,~~ the office

1 of ~~the governor~~ REGULATORY REFORM, and all persons who have
2 requested the agency in writing for advance notice of proposed
3 action which may affect them.

4 SEC. 28. (1) BEFORE THE ADOPTION OF A STANDARD FORM CON-
5 TRACT THAT WOULD HAVE BEEN CONSIDERED A RULE BUT FOR THE EXEMP-
6 TION FROM RULEMAKING UNDER SECTION 7(O) OR A POLICY EXEMPT FROM
7 RULEMAKING UNDER SECTION 7(P), AN AGENCY SHALL GIVE NOTICE OF THE
8 PROPOSED STANDARD FORM CONTRACT OR POLICY TO THE COMMITTEE AND
9 THE OFFICE OF REGULATORY REFORM. THE COMMITTEE SHALL PROVIDE A
10 COPY OF THE NOTICE NOT LATER THAN THE NEXT BUSINESS DAY AFTER
11 RECEIPT OF THE NOTICE FROM THE AGENCY TO MEMBERS OF THE COMMITTEE
12 AND TO MEMBERS OF THE STANDING COMMITTEES OF THE SENATE AND HOUSE
13 OF REPRESENTATIVES THAT DEAL WITH THE SUBJECT MATTER OF THE PRO-
14 POSED STANDARD FORM CONTRACT OR POLICY.

15 (2) THE NOTICE REQUIRED BY SUBSECTION (1) SHALL INCLUDE ALL
16 OF THE FOLLOWING:

17 (A) A STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED
18 STANDARD FORM CONTRACT OR POLICY, A DESCRIPTION OF THE SUBJECTS
19 AND ISSUES INVOLVED, AND THE PROPOSED EFFECTIVE DATE OF THE STAN-
20 DARD FORM CONTRACT OR POLICY.

21 (B) A STATEMENT THAT THE ADDRESSEE MAY EXPRESS ANY VIEWS OR
22 ARGUMENTS REGARDING THE PROPOSED STANDARD FORM CONTRACT OR POLICY
23 OR THE STANDARD FORM CONTRACT'S OR POLICY'S EFFECT ON A PERSON.

24 (C) THE ADDRESS TO WHICH COMMENTS MAY BE SENT AND THE DATE
25 BY WHICH THE COMMENTS SHALL BE MAILED, WHICH DATE SHALL NOT BE
26 LESS THAN 35 DAYS FROM THE DATE OF THE MAILING OF THE NOTICE.

1 (D) A REFERENCE TO THE SPECIFIC STATUTORY PROVISION UNDER
2 WHICH THE STANDARD FORM CONTRACT OR POLICY IS ISSUED.

3 (3) IF THE VALUE OF A PROPOSED STANDARD FORM CONTRACT EXEMPT
4 FROM RULEMAKING UNDER SECTION 7(O) IS \$10,000,000.00 OR MORE, THE
5 NOTICE REQUIRED UNDER SUBSECTION (1) SHALL INCLUDE A COPY OF THE
6 PROPOSED STANDARD FORM CONTRACT. IF THE VALUE OF THE PROPOSED
7 STANDARD FORM CONTRACT EXEMPT FROM RULEMAKING UNDER SECTION 7(O)
8 IS LESS THAN \$10,000,000.00, THE DEPARTMENT SHALL PROVIDE A COPY
9 OF THE PROPOSED STANDARD FORM CONTRACT OR POLICY TO ANY LEGISLA-
10 TOR REQUESTING A COPY.

11 Sec. 33. (1) An agency shall promulgate rules describing
12 its organization and stating the general course and method of its
13 operations and may include therein forms with instructions.
14 Sections 41, ~~and~~ 42, 45, AND 45A do not apply to such rules.

15 (2) An agency shall promulgate rules prescribing its proce-
16 dures available to the public and the methods by which the public
17 may obtain information and submit requests.

18 (3) An agency may promulgate rules ~~—~~ not inconsistent with
19 this act or other applicable statutes ~~—~~ prescribing procedures
20 for contested cases.

21 SEC. 34. (1) THE OFFICE OF REGULATORY REFORM IS AN INDEPEN-
22 DENT AND AUTONOMOUS TYPE 1 AGENCY WITHIN THE DEPARTMENT OF MAN-
23 AGEMENT AND BUDGET. THE OFFICE OF REGULATORY REFORM HAS THE
24 POWERS AND DUTIES AS SET FORTH IN EXECUTIVE ORDER NO. 1995-6
25 (EXECUTIVE REORGANIZATION ORDER NO. 1995-5), MCL 10.151, AND
26 SHALL EXERCISE THE POWERS AND PERFORM THE DUTIES PRESCRIBED BY
27 SUBSECTION (2) INDEPENDENTLY OF THE PRINCIPAL EXECUTIVE

1 DEPARTMENTS OF THIS STATE, INCLUDING, BUT NOT LIMITED TO,
2 PERSONNEL, BUDGETING, PROCUREMENT, AND MANAGEMENT-RELATED
3 FUNCTIONS.

4 (2) IN ADDITION TO ANY OTHER POWERS AND DUTIES DESCRIBED IN
5 SUBSECTION (1), THE OFFICE OF REGULATORY REFORM SHALL REVIEW PRO-
6 POSED RULES, COORDINATE PROCESSING OF RULES BY AGENCIES, WORK
7 WITH THE AGENCIES TO STREAMLINE THE RULE-MAKING PROCESS, AND CON-
8 sider efforts designed to improve public access to the
9 RULE-MAKING PROCESS.

10 Sec. 36. The ~~joint committee on administrative rules~~
11 OFFICE OF REGULATORY REFORM may prescribe procedures and stan-
12 dards not inconsistent with this act or other applicable statutes
13 ~~—~~ for the drafting ~~—, processing,~~ OF RULES, publication OF
14 REQUIRED NOTICES, and distribution of rules. THE OFFICE OF REGU-
15 LATORY REFORM MAY PRESCRIBE PROCEDURES AND STANDARDS NOT INCON-
16 SISTENT WITH THIS ACT OR OTHER APPLICABLE STATUTES FOR THE PRO-
17 CESSING OF RULES WITHIN THE EXECUTIVE BRANCH. The procedures and
18 standards shall be included in a manual which the ~~legislative~~
19 ~~service bureau~~ OFFICE OF REGULATORY REFORM shall publish and
20 distribute in reasonable quantities to the state departments AND
21 THE COMMITTEE.

22 SEC. 39. (1) BEFORE INITIATING ANY CHANGES OR ADDITIONS TO
23 RULES, AN AGENCY SHALL FILE WITH THE OFFICE OF REGULATORY REFORM
24 A REQUEST FOR RULE-MAKING ON A FORM PRESCRIBED BY THE OFFICE OF
25 REGULATORY REFORM. THE REQUEST FOR RULE-MAKING SHALL INCLUDE THE
26 FOLLOWING:

1 (A) THE STATE OR FEDERAL STATUTORY OR REGULATORY BASIS FOR
2 THE RULE.

3 (B) THE PROBLEM THE RULE INTENDS TO ADDRESS.

4 (C) AN ASSESSMENT OF THE SIGNIFICANCE OF THE PROBLEM.

5 (2) AN AGENCY SHALL NOT PROCEED WITH THE PROCESSING OF A
6 RULE OUTLINED IN THIS CHAPTER UNLESS THE OFFICE OF REGULATORY
7 REFORM HAS APPROVED THE REQUEST FOR RULE-MAKING.

8 (3) THE OFFICE OF REGULATORY REFORM SHALL RECORD THE RECEIPT
9 OF ALL REQUESTS FOR RULE-MAKING ON THE INTERNET AND SHALL MAKE
10 COPIES OF APPROVED REQUESTS FOR RULE-MAKING AVAILABLE TO MEMBERS
11 OF THE GENERAL PUBLIC UPON REQUEST.

12 (4) THE OFFICE OF REGULATORY REFORM SHALL IMMEDIATELY MAKE
13 AVAILABLE TO THE COMMITTEE COPIES OF THE REQUEST FOR RULE-MAKING
14 [SUBMITTED TO] THE OFFICE OF REGULATORY REFORM. [ON A WEEKLY BASIS,
THE OFFICE OF REGULATORY REFORM SHALL PROVIDE TO THE COMMITTEE A
LISTING OF ALL REQUESTS FOR RULE-MAKING APPROVED OR DENIED DURING
THE PREVIOUS WEEK.] THE COMMITTEE SHALL
15 PROVIDE A COPY OF THE APPROVED [AND DENIED REQUESTS] FOR RULE-
MAKING, NOT LATER
16 THAN THE NEXT BUSINESS DAY AFTER RECEIPT OF THE NOTICE FROM THE
17 OFFICE OF REGULATORY REFORM, TO MEMBERS OF THE COMMITTEE AND TO
18 MEMBERS OF THE STANDING COMMITTEES OF THE SENATE AND HOUSE OF
19 REPRESENTATIVES THAT DEAL WITH THE SUBJECT MATTER OF THE PROPOSED
20 RULE.

21 SEC. 39A. (1) AN AGENCY MAY PUBLISH THE NOTICE OF HEARING
22 UNDER SECTION 42 ONLY IF THE OFFICE OF REGULATORY REFORM HAS
23 RECEIVED DRAFT PROPOSED RULES AND HAS GIVEN THE AGENCY APPROVAL
24 TO PROCEED WITH A PUBLIC HEARING.

25 (2) AFTER A GRANT OF APPROVAL TO HOLD A PUBLIC HEARING BY
26 THE OFFICE OF REGULATORY REFORM UNDER SUBSECTION (1), THE OFFICE
27 OF REGULATORY REFORM SHALL IMMEDIATELY PROVIDE A COPY OF THE

1 PROPOSED RULES TO THE COMMITTEE. THE COMMITTEE SHALL PROVIDE A
2 COPY OF THE PROPOSED RULES, NOT LATER THAN THE NEXT BUSINESS DAY
3 AFTER RECEIPT OF THE NOTICE FROM THE OFFICE OF REGULATORY REFORM,
4 TO MEMBERS OF THE COMMITTEE AND TO MEMBERS OF THE STANDING COM-
5 MITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES THAT DEAL WITH
6 THE SUBJECT MATTER OF THE PROPOSED RULE.

7 Sec. 40. (1) When an agency proposes to adopt a rule
8 ~~which~~ THAT will apply to a small business ~~,~~ and ~~the small~~
9 ~~business economic impact statement discloses that~~ the rule will
10 have a disproportionate impact on small businesses because of the
11 size of those businesses, the agency proposing to adopt the rule
12 shall reduce the economic impact of the rule on small businesses
13 by doing 1 or more of the following when it is lawful and feasi-
14 ble in meeting the objectives of the act authorizing the promul-
15 gation of the rule:

16 (a) Establish differing compliance or reporting requirements
17 or timetables for small businesses under the rule.

18 (b) Consolidate or simplify the compliance and reporting
19 requirements for small businesses under the rule.

20 (c) Establish performance rather than design standards, when
21 appropriate.

22 (d) Exempt small businesses from any or all of the require-
23 ments of the rule.

24 (2) If appropriate in reducing the disproportionate economic
25 impact on small business of a rule as provided in subsection (1),
26 an agency may use the following classifications of small
27 business:

1 (a) 0-9 full-time employees.

2 (b) 10-49 full-time employees.

3 (c) 50-249 full-time employees.

4 (3) For purposes of subsection (2), an agency may include a
5 small business with a greater number of full-time employees in a
6 classification that applies to a business with fewer full-time
7 employees.

8 (4) This section and section 45(3) ~~shall~~ DO not apply to a
9 rule which is required by federal law and which an agency promul-
10 gates without imposing standards more stringent than those
11 required by the federal law.

12 Sec. 41a. A member of the legislature may annually submit a
13 written request to the ~~legislative service bureau~~ OFFICE OF
14 REGULATORY REFORM requesting that a copy of all proposed rules or
15 changes in rules, or any designated proposed rules or changes in
16 rules submitted to the ~~legislative service bureau~~ OFFICE OF
17 REGULATORY REFORM for its approval, be transmitted to the
18 requesting member upon receipt of the same by the ~~legislative~~
19 ~~service bureau~~ OFFICE OF REGULATORY REFORM.

20 Sec. 42. (1) Except as provided in section 44, at a mini-
21 mum, an agency shall publish the notice of public hearing as pre-
22 scribed in any applicable statute ~~—~~, or, if none, the agency
23 shall publish the notice not less than 10 days and not more than
24 60 days before the date of the public hearing in at least 3 news-
25 papers of general circulation in different parts of the state, 1
26 of which shall be in the Upper Peninsula.

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

4 (3) In addition to the requirements of subsection (1), the
5 agency shall submit a copy of the notice OF PUBLIC HEARING to the
6 ~~legislative service bureau~~ OFFICE OF REGULATORY REFORM for pub-
7 lication in the Michigan register. An agency's notice shall be
8 published in the Michigan register ~~not less than 30 days and not~~
9 ~~more than 90 days~~ before the public hearing AND THE AGENCY SHALL
10 FILE A COPY OF THE NOTICE OF PUBLIC HEARING WITH THE OFFICE OF
11 REGULATORY REFORM. WITHIN 7 DAYS AFTER RECEIPT OF THE NOTICE OF
12 PUBLIC HEARING, THE OFFICE OF REGULATORY REFORM SHALL DO ALL OF
13 THE FOLLOWING BEFORE THE PUBLIC HEARING:

14 (A) FORWARD A COPY OF THE NOTICE OF PUBLIC HEARING TO THE
15 COMMITTEE.

16 (B) PROVIDE NOTICE ELECTRONICALLY THROUGH PUBLICLY ACCESSI-
17 BLE INTERNET MEDIA.

18 (4) AFTER THE OFFICE OF REGULATORY REFORM FORWARDS A COPY OF
19 THE NOTICE OF PUBLIC HEARING TO THE COMMITTEE, THE COMMITTEE
20 SHALL SEND COPIES OF THE NOTICE OF PUBLIC HEARING, NOT LATER THAN
21 THE NEXT BUSINESS DAY AFTER RECEIPT OF THE NOTICE FROM THE OFFICE
22 OF REGULATORY REFORM, TO EACH MEMBER OF THE COMMITTEE AND TO THE
23 MEMBERS OF THE STANDING COMMITTEES OF THE SENATE AND HOUSE OF
24 REPRESENTATIVES THAT DEAL WITH THE SUBJECT MATTER OF THE PROPOSED
25 RULE.

26 (5) AFTER RECEIPT OF THE NOTICE OF PUBLIC HEARING FILED
27 UNDER SUBSECTION (3), THE COMMITTEE MAY MEET TO CONSIDER THE

1 PROPOSED RULE, TAKE TESTIMONY, AND PROVIDE THE AGENCY WITH THE
2 COMMITTEE'S INFORMAL RESPONSE TO THE RULE.

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

10 (2) Sections 41 and 42 do not apply to a rule that is
11 promulgated under the Michigan occupational safety and health
12 act, ~~Act No. 154 of the Public Acts of 1974, being sections~~
13 ~~408.1001 to 408.1094 of the Michigan Compiled Laws~~ 1974 PA 154,
14 MCL 408.1001 TO 408.1094, that is substantially similar to an
15 existing federal standard that has been adopted or promulgated
16 under the occupational safety and health act of 1970, Public Law
17 91-596, 84 Stat. 1590. However, notice of the proposed rule
18 shall be published in the Michigan register at least ~~60~~ 35 days
19 before the submission of the rule to the secretary of state pur-
20 suant to section 46(4). A reasonable period, not to exceed ~~30~~
21 21 days, shall be provided for the submission of written comments
22 and views following publication in the Michigan register.

23 (3) For purposes of subsection (2), "substantially similar"
24 means identical, with the exception of style or format differ-
25 ences needed to conform to this or other state laws, as deter-
26 mined by the ~~department of attorney general~~ OFFICE OF
27 REGULATORY REFORM pursuant to section 45(1).

1 Sec. 45. (1) IF APPROVED BY THE OFFICE OF REGULATORY
2 REFORM, THE AGENCY MAY SUBMIT THE PROPOSED RULE TO THE LEGISLA-
3 TIVE SERVICE BUREAU FOR ITS FORMAL CERTIFICATION. The legislative
4 service bureau promptly shall approve a proposed rule if ~~the~~
5 ~~legislative service bureau~~ IT considers the proposed rule to be
6 proper as to all matters of form, classification, AND
7 arrangement. ~~and numbering.~~ The ~~department of attorney general~~
8 ~~promptly shall~~ OFFICE OF REGULATORY REFORM MAY approve a pro-
9 posed rule if ~~the department~~ IT considers the proposed rule to
10 be legal.

11 (2) Except as provided in subsection ~~(13)~~ (6), after
12 ~~publication of the proposed rule in the Michigan register and~~
13 ~~after~~ notice is given as provided in this act and before the
14 agency proposing the rule has formally adopted the rule, the
15 agency SHALL PREPARE AN AGENCY REPORT CONTAINING A SYNOPSIS OF
16 THE COMMENTS CONTAINED IN THE PUBLIC HEARING RECORD AND SHALL
17 DESCRIBE ANY CHANGES IN THE PROPOSED RULES THAT WERE MADE BY THE
18 AGENCY AFTER THE PUBLIC HEARING. THE OFFICE OF REGULATORY REFORM
19 shall transmit by letter to the committee copies of the rule,
20 ~~bearing~~ THE AGENCY REPORTS, AND certificates of approval from
21 the legislative service bureau and the ~~department of attorney~~
22 ~~general and copies of the rule without certificates~~ OFFICE OF
23 REGULATORY REFORM. THE NUMBER OF COPIES TRANSMITTED SHALL BE THE
24 NUMBER REQUIRED IN THE COMMITTEE PROCEDURES AND STANDARDS BUT NOT
25 TO EXCEED 12 COPIES. The agency ~~transmittal~~ shall ~~be received~~
26 ~~by~~ TRANSMIT TO the committee THE DOCUMENTS DESCRIBED IN THIS
27 SUBSECTION within ~~2 years~~ 1 YEAR after the date of the last

1 public hearing on the proposed rule unless the proposed rule is a
2 resubmission under ~~subsection (11)~~ SECTION 45A(7). ~~The~~

3 (3) EXCEPT FOR A RULE PROMULGATED UNDER SECTIONS 33, 44, AND
4 48, THE agency shall PREPARE AND include with the letter of
5 transmittal a regulatory impact statement ~~on a 1-page form pro-~~
6 ~~vided by the committee. The statement shall provide estimates of~~
7 ~~the impact of the proposed rules upon~~ CONTAINING all of the fol-
8 lowing INFORMATION:

9 ~~(a) The revenues, expenditures, and paper work requirements~~
10 ~~of the agency proposing the rule.~~

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

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

16 ~~(3) Except as provided in subsection (13) and section 40(4),~~
17 ~~if the regulatory impact statement discloses an impact on small~~
18 ~~businesses, the agency shall include with the letter of transmit-~~
19 ~~tal a small business economic impact statement in a form pre-~~
20 ~~scribed by the committee. A small business economic impact~~
21 ~~statement shall contain all of the following with respect to the~~
22 ~~proposed rules:~~

23 ~~(a) The nature of any reports and the estimated cost of~~
24 ~~their preparation by small businesses that would be required to~~
25 ~~comply with the proposed rules.~~

1 ~~(b) An analysis of the costs of compliance for all small~~
2 ~~businesses affected by the proposed rules, including costs of~~
3 ~~equipment, supplies, labor, and increased administrative costs.~~

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

7 ~~(d) A statement regarding whether the proposed rules will~~
8 ~~have a disproportionate impact on small businesses because of the~~
9 ~~size of those businesses.~~

10 ~~(e) The ability of small businesses to absorb the costs~~
11 ~~estimated under subdivisions (a) to (c) without suffering eco-~~
12 ~~nomie harm and without adversely affecting competition in the~~
13 ~~marketplace.~~

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

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

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

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

25 ~~(4) In order to obtain cost information for purposes of sub-~~
26 ~~section (3), an agency may survey a representative sample of~~

1 ~~affected small businesses or trade associations or may adopt any~~
2 ~~other means considered appropriate by the agency.~~

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

9 ~~(6) After receipt by the committee of the agency's letter of~~
10 ~~transmittal, the committee has 2 months in which to consider the~~
11 ~~rule. If the committee by a majority vote determines that added~~
12 ~~time is needed to consider proposed rules, the committee may~~
13 ~~extend the time it has to consider a particular proposed rule by~~
14 ~~1 month to a total of not longer than 3 months. This subsection,~~
15 ~~subsections (2) to (5), and subsections (7) to (12) do not apply~~
16 ~~to an emergency rule.~~

17 (A) A COMPARISON OF THE PROPOSED RULE TO PARALLEL FEDERAL
18 RULES OR STANDARDS SET BY A STATE OR NATIONAL LICENSING AGENCY OR
19 ACCREDITATION ASSOCIATION, IF ANY EXIST.

20 (B) AN IDENTIFICATION OF THE BEHAVIOR AND FREQUENCY OF
21 BEHAVIOR THAT THE RULE IS DESIGNED TO ALTER.

22 (C) AN IDENTIFICATION OF THE HARM RESULTING FROM THE BEHAV-
23 IOR THAT THE RULE IS DESIGNED TO ALTER AND THE LIKELIHOOD THAT
24 THE HARM WILL OCCUR IN THE ABSENCE OF THE RULE.

25 (D) AN ESTIMATE OF THE CHANGE IN THE FREQUENCY OF THE TAR-
26 GETED BEHAVIOR EXPECTED FROM THE RULE.

1 (E) AN IDENTIFICATION OF THE BUSINESSES, GROUPS, OR
2 INDIVIDUALS WHO WILL BE DIRECTLY AFFECTED BY, BEAR THE COST OF,
3 OR DIRECTLY BENEFIT FROM THE RULE.

4 (F) AN IDENTIFICATION OF ANY REASONABLE ALTERNATIVES TO REG-
5 ULATION PURSUANT TO THE PROPOSED RULE THAT WOULD ACHIEVE THE SAME
6 OR SIMILAR GOALS.

7 (G) A DISCUSSION OF THE FEASIBILITY OF ESTABLISHING A REGU-
8 LATORY PROGRAM SIMILAR TO THAT PROPOSED IN THE RULE THAT WOULD
9 OPERATE THROUGH MARKET-BASED MECHANISMS.

10 (H) AN ESTIMATE OF THE COST OF RULE IMPOSITION ON THE AGENCY
11 PROMULGATING THE RULE.

12 (I) AN ESTIMATE OF THE ACTUAL STATEWIDE COMPLIANCE COSTS OF
13 THE PROPOSED RULE ON INDIVIDUALS.

14 (J) AN ESTIMATE OF THE ACTUAL STATEWIDE COMPLIANCE COSTS OF
15 THE PROPOSED RULE ON BUSINESSES AND OTHER GROUPS.

16 (K) AN IDENTIFICATION OF ANY DISPROPORTIONATE IMPACT THE
17 PROPOSED RULE MAY HAVE ON SMALL BUSINESSES BECAUSE OF THEIR
18 SIZE.

19 (L) AN IDENTIFICATION OF THE NATURE OF ANY REPORT AND THE
20 ESTIMATED COST OF ITS PREPARATION BY SMALL BUSINESS REQUIRED TO
21 COMPLY WITH THE PROPOSED RULE.

22 (M) AN ANALYSIS OF THE COSTS OF COMPLIANCE FOR ALL SMALL
23 BUSINESSES AFFECTED BY THE PROPOSED RULE, INCLUDING COSTS OF
24 EQUIPMENT, SUPPLIES, LABOR, AND INCREASED ADMINISTRATIVE COSTS.

25 (N) AN IDENTIFICATION OF THE NATURE AND ESTIMATED COST OF
26 ANY LEGAL CONSULTING AND ACCOUNTING SERVICES THAT SMALL
27 BUSINESSES WOULD INCUR IN COMPLYING WITH THE PROPOSED RULE.

1 (O) AN ESTIMATE OF THE ABILITY OF SMALL BUSINESSES TO ABSORB
2 THE COSTS ESTIMATED UNDER SUBDIVISIONS (1) THROUGH (N) WITHOUT
3 SUFFERING ECONOMIC HARM AND WITHOUT ADVERSELY AFFECTING COMPETI-
4 TION IN THE MARKETPLACE.

5 (P) AN ESTIMATE OF THE COST, IF ANY, TO THE AGENCY OF ADMIN-
6 ISTERING OR ENFORCING A RULE THAT EXEMPTS OR SETS LESSER STAN-
7 DARDS FOR COMPLIANCE BY SMALL BUSINESSES.

8 (Q) AN IDENTIFICATION OF THE IMPACT ON THE PUBLIC INTEREST
9 OF EXEMPTING OR SETTING LESSER STANDARDS OF COMPLIANCE FOR SMALL
10 BUSINESSES.

11 (R) A STATEMENT DESCRIBING THE MANNER IN WHICH THE AGENCY
12 REDUCED THE ECONOMIC IMPACT OF THE RULE ON SMALL BUSINESSES OR A
13 STATEMENT DESCRIBING THE REASONS SUCH A REDUCTION WAS NOT
14 FEASIBLE.

15 (S) A STATEMENT DESCRIBING WHETHER AND HOW THE AGENCY HAS
16 INVOLVED SMALL BUSINESSES IN THE DEVELOPMENT OF THE RULE.

17 (T) AN ESTIMATE OF THE PRIMARY AND DIRECT BENEFITS OF THE
18 RULE.

19 (U) AN ESTIMATE OF ANY COST REDUCTIONS TO BUSINESSES, INDI-
20 VIDUALS, GROUPS OF INDIVIDUALS, OR GOVERNMENTAL UNITS AS A RESULT
21 OF THE RULE.

22 (V) AN ESTIMATE OF ANY INCREASE IN REVENUES TO STATE OR
23 LOCAL GOVERNMENTAL UNITS AS A RESULT OF THE RULE.

24 (W) AN ESTIMATE OF ANY SECONDARY OR INDIRECT BENEFITS OF THE
25 RULE.

26 (X) AN IDENTIFICATION OF THE SOURCES THE AGENCY RELIED UPON
27 IN COMPILING THE REGULATORY IMPACT STATEMENT.

1 (Y) ANY OTHER INFORMATION REQUIRED BY THE OFFICE OF
2 REGULATORY REFORM.

3 (4) THE AGENCY SHALL TRANSMIT THE REGULATORY IMPACT STATE-
4 MENT REQUIRED UNDER SUBSECTION (3) TO THE OFFICE OF REGULATORY
5 REFORM AT LEAST 28 DAYS BEFORE THE PUBLIC HEARING REQUIRED PURSU-
6 ANT TO SECTION 42. BEFORE THE PUBLIC HEARING CAN BE HELD, THE
7 REGULATORY IMPACT STATEMENT MUST BE APPROVED BY THE OFFICE OF
8 REGULATORY REFORM. THE AGENCY SHALL ALSO TRANSMIT A COPY OF THE
9 REGULATORY IMPACT STATEMENT TO THE COMMITTEE BEFORE THE PUBLIC
10 HEARING AND THE AGENCY SHALL MAKE COPIES AVAILABLE TO THE PUBLIC
11 AT THE PUBLIC HEARING.

12 (5) ~~-(7)-~~ The committee shall furnish the senate fiscal
13 agency and the house fiscal agency with a copy of each rule and
14 regulatory impact statement filed with the committee, as well as
15 a copy of the agenda identifying the proposed rules to be consid-
16 ered by the committee. The senate fiscal agency and the house
17 fiscal agency shall analyze each proposed rule for possible
18 fiscal implications which, if adopted, would result in additional
19 appropriations in the current fiscal year or commit the legisla-
20 ture to an appropriation in a future fiscal year. The senate
21 fiscal agency and the house fiscal agency shall report their
22 findings in writing to the senate and house appropriations com-
23 mittees and to the committee before the date of consideration of
24 the proposed rule by the committee.

25 ~~-(8) If the committee approves the proposed rule within the~~
26 ~~time period provided by subsection (6), the committee shall~~
27 ~~attach a certificate of its approval to all copies of the rule~~

1 ~~bearing certificates except 1 and transmit those copies to the~~
2 ~~agency.~~

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

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

14 ~~(b) The committee subsequently approves the rule.~~

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

24 ~~(a) The legislature adopts a concurrent resolution approving~~
25 ~~the rule within 60 days after introduction by record roll call~~
26 ~~vote. The adoption of the concurrent resolution requires a~~

1 ~~majority of the members elected to and serving in each house of~~
2 ~~the legislature.~~

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

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

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

20 ~~(6) -(13) Subsections (2), through (12) (3), AND (4) do~~
21 ~~not apply to a rule that is promulgated under the Michigan occu-~~
22 ~~pational safety and health act, Act No. 154 of the Public Acts of~~
23 ~~1974, being sections 408.1001 to 408.1094 of the Michigan~~
24 ~~Compiled Laws, that is substantially similar to an existing fed-~~
25 ~~eral standard that has been adopted or promulgated under the~~
26 ~~occupational safety and health act of 1970, Public Law 91-596, 84~~
27 ~~Stat. 1590 SECTIONS 33, 44, AND 48.~~

1 SEC. 45A. (1) EXCEPT AS OTHERWISE PROVIDED FOR IN
2 SUBSECTIONS (7) AND (8), AFTER RECEIPT BY THE COMMITTEE OF THE
3 LETTER OF TRANSMITTAL SPECIFIED IN SECTION 45(2), THE COMMITTEE
4 HAS 21 CALENDAR DAYS IN WHICH TO CONSIDER THE RULE AND TO OBJECT
5 TO THE RULE BY FILING A NOTICE OF OBJECTION APPROVED BY A CONCUR-
6 RENT MAJORITY OF THE COMMITTEE MEMBERS. A NOTICE OF OBJECTION
7 MAY ONLY BE APPROVED BY THE COMMITTEE IF THE COMMITTEE AFFIRMA-
8 TIVELY DETERMINES BY A CONCURRENT MAJORITY THAT 1 OR MORE OF THE
9 FOLLOWING CONDITIONS EXIST:

10 (A) THE AGENCY LACKS STATUTORY AUTHORITY FOR THE RULE.

11 (B) THE AGENCY IS EXCEEDING THE STATUTORY SCOPE OF ITS
12 RULE-MAKING AUTHORITY.

13 (C) THERE EXISTS AN EMERGENCY RELATING TO THE PUBLIC HEALTH,
14 SAFETY, AND WELFARE THAT WOULD WARRANT DISAPPROVAL OF THE RULE.

15 (D) THE RULE IS IN CONFLICT WITH STATE LAW.

16 (E) A SUBSTANTIAL CHANGE IN CIRCUMSTANCES HAS OCCURRED SINCE
17 ENACTMENT OF THE LAW UPON WHICH THE PROPOSED RULE IS BASED.

18 (F) THE RULE IS ARBITRARY OR CAPRICIOUS.

19 (G) THE RULE IS UNDULY BURDENSOME TO THE PUBLIC OR TO A
20 LICENSEE LICENSED BY THE RULE.

21 (2) IF THE COMMITTEE DOES NOT FILE A NOTICE OF OBJECTION
22 WITHIN THE TIME PERIOD PRESCRIBED IN SUBSECTION (1), THE OFFICE
23 OF REGULATORY REFORM MAY IMMEDIATELY FILE THE RULE WITH THE SEC-
24 RETARY OF STATE. THE RULE SHALL TAKE EFFECT 7 DAYS AFTER THE
25 DATE OF ITS FILING UNLESS A LATER DATE IS INDICATED WITHIN THE
26 RULE.

1 (3) IF THE COMMITTEE FILES A NOTICE OF OBJECTION WITHIN THE
2 TIME PERIOD PRESCRIBED IN SUBSECTION (1), THE COMMITTEE CHAIR [, THE
3 ALTERNATE CHAIR, OR ANY MEMBER OF THE COMMITTEE] SHALL CAUSE BILLS
4 TO BE INTRODUCED IN BOTH HOUSES
5 OF THE LEGISLATURE SIMULTANEOUSLY. EACH HOUSE SHALL PLACE THE [BILL
6 OR]
7 BILLS DIRECTLY ON ITS CALENDAR. THE BILLS SHALL CONTAIN 1 OR
8 MORE OF THE FOLLOWING:
9 (A) A RESCISSION OF A RULE UPON ITS EFFECTIVE DATE.
10 (B) A REPEAL OF THE STATUTORY PROVISION UNDER WHICH THE RULE
11 WAS AUTHORIZED.
12 (C) A BILL STAYING THE EFFECTIVE DATE OF THE PROPOSED RULE
13 FOR UP TO 1 YEAR.
14 (4) THE NOTICE OF OBJECTION FILED UNDER SUBSECTION (3) STAYS
15 THE ABILITY OF THE OFFICE OF REGULATORY REFORM TO FILE THE RULE
16 WITH THE SECRETARY OF STATE FOR THE FOLLOWING TIME PERIODS:
17 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B) OR (C), 21 CONSEC-
18 UTIVE CALENDAR DAYS.
19 (B) IF BOTH HOUSES OF THE LEGISLATURE ARE NOT IN SESSION FOR
20 MORE THAN 14 CONSECUTIVE CALENDAR DAYS BUT 21 OR LESS CONSECUTIVE
21 CALENDAR DAYS FOLLOWING THE FILING OF A NOTICE OF OBJECTION, THE
22 21-DAY TIME PERIOD DESCRIBED IN SUBDIVISION (A) SHALL TOLL, WITH
23 THE REMAINDER OF THE 21-DAY TIME PERIOD AVAILABLE FOR CONSIDERA-
24 TION UPON THE RETURN OF [BOTH HOUSES]. IN NO CASE UNDER THIS SUB-
25 DIVISION SHALL THE COMBINED TIME PERIOD FOR CONSIDERATION BY THE
26 COMMITTEE AND FULL LEGISLATURE EXCEED 63 CONSECUTIVE CALENDAR
27 DAYS.
28 (C) IF BOTH HOUSES OF THE LEGISLATURE ARE NOT IN SESSION
29 MORE THAN 21 CONSECUTIVE CALENDAR DAYS FOLLOWING THE FILING OF A

1 TIMELY NOTICE OF OBJECTION, THE 21-DAY TIME PERIOD DESCRIBED IN
2 SUBDIVISION (A) SHALL TOLL, WITH THE REMAINDER OF THE 21-DAY TIME
3 PERIOD AVAILABLE FOR CONSIDERATION UPON THE RETURN OF [BOTH
4 HOUSES].

5 (5) IF THE LEGISLATION INTRODUCED PURSUANT TO SUBSECTION (3)
6 IS DEFEATED IN EITHER HOUSE AND IF THE VOTE BY WHICH THE LEGISLA-
7 TION FAILED TO PASS IS NOT RECONSIDERED IN COMPLIANCE WITH THE
8 RULES OF THAT HOUSE, OR IF LEGISLATION INTRODUCED PURSUANT TO
9 SUBSECTION (3) IS NOT ADOPTED BY BOTH HOUSES WITHIN THE TIME
10 PERIOD SPECIFIED IN SUBSECTION (4), THE OFFICE OF REGULATORY
11 REFORM MAY FILE THE RULE WITH THE SECRETARY OF STATE. UPON
12 FILING WITH THE SECRETARY OF STATE, THE RULE SHALL TAKE EFFECT 7
13 DAYS AFTER THE FILING DATE UNLESS A LATER DATE IS SPECIFIED
14 WITHIN THE RULE.

15 (6) IF THE LEGISLATION INTRODUCED PURSUANT TO SUBSECTION (3)
16 IS ENACTED BY THE LEGISLATURE AND PRESENTED TO THE GOVERNOR
17 WITHIN THE 21-DAY PERIOD, THE RULES DO NOT BECOME EFFECTIVE
18 UNLESS THE LEGISLATION IS VETOED BY THE GOVERNOR AS PROVIDED BY
19 LAW. IF THE GOVERNOR VETOES THE LEGISLATION, THE OFFICE OF REGU-
20 LATORY REFORM MAY FILE THE RULES IMMEDIATELY. THE RULE SHALL
21 TAKE EFFECT 7 DAYS AFTER THE DATE OF ITS FILING UNLESS A LATER
22 EFFECTIVE DATE IS INDICATED WITHIN THE RULE.

23 (7) AN AGENCY MAY WITHDRAW A PROPOSED RULE UNDER THE FOLLOW-
24 ING CONDITIONS:

25 (A) WITH PERMISSION OF THE CHAIR AND ALTERNATE CHAIR, THE
26 AGENCY MAY WITHDRAW THE RULE AND RESUBMIT IT. IF PERMISSION TO
27 WITHDRAW IS GRANTED, THE 21-DAY TIME PERIOD DESCRIBED IN

1 SUBSECTION (1) IS TOLLED UNTIL THE RULE IS RESUBMITTED, EXCEPT
2 THAT THE COMMITTEE SHALL HAVE AT LEAST 7 CALENDAR DAYS AFTER
3 RESUBMISSION TO CONSIDER THE RESUBMITTED RULE. THE PERIOD OF
4 TIME BETWEEN WITHDRAWAL AND RESUBMISSION OF THE RULE IS NOT
5 COUNTED TOWARD THE 63-DAY LIMIT FOR RULE CONSIDERATION DESCRIBED
6 IN SUBSECTION (4)(B).

7 (B) WITHOUT PERMISSION OF THE CHAIR AND ALTERNATE CHAIR, THE
8 AGENCY MAY WITHDRAW THE RULE AND RESUBMIT IT. IF PERMISSION TO
9 WITHDRAW IS NOT GRANTED, A NEW AND UNTOLLED 21-DAY TIME PERIOD
10 DESCRIBED IN SUBSECTION (1) SHALL BEGIN UPON RESUBMISSION OF THE
11 RULE TO THE COMMITTEE FOR CONSIDERATION.

12 (8) SUBSECTIONS (1) THROUGH (5) DO NOT APPLY TO RULES
13 ADOPTED UNDER SECTIONS 33, 44, AND 48.

14 Sec. 46. (1) ~~Except for a rule processed pursuant to~~
15 ~~section 44(2), to~~ TO promulgate a rule ~~an agency~~ THE OFFICE OF
16 REGULATORY REFORM shall file in the office of the secretary of
17 state 3 copies of the rule bearing the required certificates of
18 approval and adoption and true copies of the rule without the
19 certificates. ~~An agency~~ THE OFFICE OF REGULATORY REFORM shall
20 not file a rule, except an emergency rule under section 48 AND
21 RULES PROCESSED UNDER SECTIONS 33 AND 44, until ~~at least 10 days~~
22 ~~after the date of the certificate of approval by the committee or~~
23 ~~after the legislature adopts a concurrent resolution approving~~
24 ~~the rule. An agency shall transmit a copy of the rule bearing~~
25 ~~the required certificates of approval and adoption to the office~~
26 ~~of the governor at least 10 days before it files the rule~~ THE

1 TIME PERIODS FOR COMMITTEE AND LEGISLATIVE CONSIDERATION

2 DESCRIBED IN SECTION 45A HAVE ELAPSED.

3 (2) The secretary of state shall endorse the date and hour
4 of filing of rules on the 3 copies of the filing bearing the cer-
5 tificates and shall maintain a file containing 1 copy for public
6 inspection.

7 (3) The secretary of state, as often as he or she considers
8 it advisable, shall cause to be arranged and bound in a substan-
9 tial manner the rules hereafter filed in his or her office with
10 their attached certificates and published in a supplement to the
11 Michigan administrative code. The secretary of state shall cer-
12 tify under his or her hand and seal of the state on the frontis-
13 piece of each volume that it contains all of the rules filed and
14 published for a specified period. The rules, when so bound and
15 certified, shall be kept in the office of the secretary of state
16 and no further record of the rules is required to be kept. The
17 bound rules are subject to public inspection.

18 ~~-(4) To promulgate a rule processed pursuant to~~
19 ~~section 44(2), an agency, after the period provided for written~~
20 ~~comments, shall file in the office of the secretary of state 3~~
21 ~~copies of the rule along with the approval of the legislative~~
22 ~~service bureau and the department of attorney general.~~

23 Sec. 47. (1) Except in case of a rule processed under sec-
24 tion 48, a rule becomes effective on the date fixed in the rule,
25 which shall not be earlier than ~~-15-~~ 7 days after the date of its
26 promulgation, or if a date is not so fixed then ~~on the date of~~

~~1 its publication in the Michigan administrative code or a~~
~~2 supplement thereto~~ 7 DAYS AFTER THE DATE OF PROMULGATION.

3 (2) Except in case of a rule processed under section 48, an
4 agency may withdraw a promulgated rule which has not become
5 effective by FILING a written request stating reasons ~~—, (a) FOR~~
6 WITHDRAWAL to the secretary of state on or before the last day
7 for filing rules for the interim period in which the rules were
8 first filed, or ~~—(b) BY FILING A WRITTEN REQUEST FOR WITHDRAWAL~~
9 to the secretary of state and the ~~legislative service bureau~~
10 OFFICE OF REGULATORY REFORM, within a reasonable time as deter-
11 mined by the ~~bureau~~ OFFICE OF REGULATORY REFORM, after the last
12 day for filing and before publication of the rule in the next
13 supplement to the code. In any other case an agency may abrogate
14 its rule only by rescission. When an agency has withdrawn a
15 promulgated rule, it shall give notice, stating reasons, to the
16 ~~joint committee on administrative rules~~ that the rule has
17 been withdrawn.

18 (3) SECTIONS 45 AND 45A APPLY TO RULES FOR WHICH A PUBLIC
19 HEARING HAS NOT BEEN HELD BY [APRIL] 1, 2000.

20 Sec. 48. (1) If an agency finds that preservation of the
21 public health, safety, or welfare requires promulgation of an
22 emergency rule without following the notice and participation
23 procedures required by sections 41 and 42 and states in the rule
24 the agency's reasons for that finding, and the governor concurs
25 in the finding of emergency, the agency may dispense with all or
26 part of the procedures and file in the office of the secretary of
27 state the copies prescribed by section 46 indorsed as an

1 emergency rule, to 3 of which copies shall be attached the
2 certificates prescribed by section 45 and the governor's certifi-
3 cate concurring in the finding of emergency. The emergency rule
4 is effective on filing and remains in effect until a date fixed
5 in the rule or 6 months after the date of its filing, whichever
6 is earlier. The rule may be extended once for not more than 6
7 months by the filing of a governor's certificate of the need for
8 the extension with the office of the secretary of state before
9 expiration of the emergency rule. An emergency rule shall not be
10 numbered and shall not be compiled in the Michigan administrative
11 code, but shall be noted in the annual supplement to the code.
12 The emergency rule shall be published in the Michigan register
13 pursuant to section 8.

14 (2) If the agency desires to promulgate an identical or sim-
15 ilar rule with an effectiveness beyond the final effective date
16 of an emergency rule, the agency shall comply with the procedures
17 prescribed by this act for the processing of a rule which is not
18 an emergency rule. The rule shall be published in the Michigan
19 register and in the code.

20 ~~(3) The legislature by a concurrent resolution may rescind~~
21 ~~an emergency rule promulgated pursuant to this section.~~

22 Sec. 52. If authorized by concurrent resolution of the leg-
23 islature, the ~~joint~~ committee, ~~on administrative rules,~~
24 acting between regular sessions, may suspend a rule or a part of
25 a rule promulgated during the interim between regular sessions.
26 The committee shall notify the agency promulgating the rule, the
27 secretary of state, the department of management and budget, and

1 the legislative service bureau AND OFFICE OF REGULATORY REFORM of
 2 any rule or part of a rule the ~~joint~~ committee suspends, and
 3 the rule or part of a rule shall not be published in the Michigan
 4 register or in the Michigan administrative code while suspended.
 5 A rule suspended by the committee continues to be suspended
 6 ~~until~~ NO LONGER THAN the end of the next regular LEGISLATIVE
 7 session.

8 Sec. 53. (1) Each agency shall prepare ~~a~~ AN ANNUAL
 9 REGULATORY plan ~~for the review of~~ THAT REVIEWS the agency's
 10 rules. ~~that are brought to the attention of the Michigan busi-~~
 11 ~~ness ombudsman.~~ The ANNUAL REGULATORY plan shall be transmitted
 12 to the ~~committee and to the director of the department of~~
 13 ~~commerce~~ OFFICE OF REGULATORY REFORM. ~~The agency shall conduct~~
 14 ~~a review pursuant to the plan.~~

15 (2) In ~~conducting the review~~ COMPLETING THE ANNUAL REGULA-
 16 TORY PLAN required by this section, the agency shall ~~prepare a~~
 17 ~~small business economic impact statement if the review discloses~~
 18 ~~an impact on small businesses.~~ The agency shall ~~prepare a recom-~~
 19 ~~mendation based on the review as to whether the rules should be~~
 20 ~~continued without change or should be amended or rescinded.~~ If
 21 ~~the small business economic impact statement discloses that an~~
 22 ~~existing rule has a disproportionate impact on small businesses~~
 23 ~~because of the size of those businesses, the agency reviewing the~~
 24 ~~rule shall, if it is lawful and feasible in meeting the objec-~~
 25 ~~tives of the act authorizing the promulgation of the rule, amend~~
 26 ~~or rescind the rule pursuant to this act to reduce or eliminate~~
 27 ~~the disproportionate impact of the rule on small businesses.~~

1 IDENTIFY THE RULES IT REASONABLY EXPECTS TO PROCESS IN THE NEXT
2 YEAR, THE MANDATORY STATUTORY RULE AUTHORITY IT HAS NOT EXER-
3 CISED, AND THE RULES IT EXPECTS TO RESCIND IN THE NEXT YEAR.

4 (3) ~~The small business economic impact statement and recom-~~
5 ~~mendation shall be transmitted to the committee and the director~~
6 ~~of the department of commerce. The director shall review the~~
7 ~~statement and shall notify the committee of any additional infor-~~
8 ~~mation pertinent to the committee's review.~~ THE ANNUAL REGULA-
9 TORY PLANS COMPLETED PURSUANT TO THIS SECTION ARE ADVISORY ONLY
10 AND DO NOT OTHERWISE BIND THE AGENCY OR IN ANY WAY PREVENT ADDI-
11 TIONAL ACTION.

12 (4) ~~Four years after its effective date, this section shall~~
13 ~~not apply.~~ ANNUAL REGULATORY PLANS COMPLETED UNDER SUBSECTION
14 (1) SHALL BE FILED WITH THE OFFICE OF REGULATORY REFORM BY JULY 1
15 OF EACH YEAR. AFTER THE OFFICE OF REGULATORY REFORM APPROVES THE
16 PLAN FOR REVIEW, THE OFFICE OF REGULATORY REFORM SHALL PROVIDE A
17 COPY OF THE PLAN OF REVIEW TO THE COMMITTEE. THE COMMITTEE SHALL
18 PROVIDE A COPY OF EACH AGENCY PLAN OF REVIEW, NOT LATER THAN THE
19 NEXT BUSINESS DAY AFTER RECEIPT OF THE PLAN OF REVIEW FROM THE
20 OFFICE OF REGULATORY REFORM, TO MEMBERS OF THE COMMITTEE AND TO
21 MEMBERS OF THE STANDING COMMITTEES OF THE SENATE AND HOUSE OF
22 REPRESENTATIVES THAT DEAL WITH THE SUBJECT MATTER OF RULES THE
23 AGENCY MAY PROPOSE.

24 SEC. 54. FAILURE OF THE COMMITTEE TO PROVIDE ANY NOTICES
25 REQUIRED UNDER SECTION 24, 28, 39, 39A, OR 42 DOES NOT AFFECT THE
26 VALIDITY OF THE PROCESSING OR ADOPTION OF A RULE.

1 Sec. 55. (1) The ~~legislative service bureau~~ OFFICE OF
2 REGULATORY REFORM annually shall publish a supplement to the
3 Michigan administrative code. The annual supplement shall con-
4 tain all promulgated rules published in the Michigan register
5 during the current year, except emergency rules, a cumulative
6 numerical listing of amendments and additions to, and rescissions
7 of rules since the last compilation of the MICHIGAN
8 ADMINISTRATIVE code, and a cumulative alphabetical index.

9 (2) The Michigan administrative code and, IF APPLICABLE, the
10 annual supplements shall be made available BY THE OFFICE OF REGU-
11 LATORY REFORM FREE OF CHARGE ON THE INTERNET AND IN PRINTED OR
12 OTHER ELECTRONIC FORMAT for public subscription at a fee reason-
13 ably calculated to cover publication and distribution costs.

14 Sec. 56. (1) The ~~legislative service bureau~~ OFFICE OF
15 REGULATORY REFORM shall perform the editorial work for the
16 Michigan register and the Michigan administrative code and its
17 annual supplement. The classification, arrangement, numbering,
18 and indexing of rules shall be UNDER THE OWNERSHIP AND CONTROL OF
19 THE OFFICE OF REGULATORY REFORM, SHALL BE uniform, and shall con-
20 form as nearly as practicable to the classification, arrangement,
21 numbering, and indexing of the compiled laws. The ~~bureau~~
22 OFFICE OF REGULATORY REFORM may correct in the publications obvi-
23 ous errors in rules when requested by the promulgating agency to
24 do so. The ~~bureau~~ OFFICE OF REGULATORY REFORM may provide for
25 publishing all or any part of the Michigan administrative code in
26 bound volume, pamphlet, ELECTRONIC, or loose-leaf form. THIS

1 SUBSECTION DOES NOT PREVENT A LEGISLATOR FROM PROVIDING A COPY OR
2 REPRODUCTION OF A RULE TO A MEMBER OF THE GENERAL PUBLIC.

3 (2) An annual supplement to the Michigan administrative code
4 shall be published at the earliest practicable date.

5 Sec. 57. (1) The ~~legislative service bureau~~ OFFICE OF
6 REGULATORY REFORM may omit from the Michigan register, ~~and~~ the
7 Michigan administrative code, and the MICHIGAN ADMINISTRATIVE
8 code's annual supplement ~~—~~ any rule, the publication of which
9 would be unreasonably expensive or lengthy if the rule in printed
10 or reproduced form is made available on application to the
11 promulgating agency, ~~and~~ if the MICHIGAN ADMINISTRATIVE code
12 publication and the Michigan register contain a notice stating
13 the general subject of the omitted rule and how a copy of the
14 rule may be obtained.

15 (2) The cost of publishing and distributing annual supple-
16 ments to the Michigan administrative code and proposed rules,
17 notices of public hearings on proposed rules, ~~small business~~
18 ~~economic impact statements, administrative~~ rules and emergency
19 rules filed with the secretary of state, notices of proposed and
20 adopted agency guidelines, and the items listed in section 7(1)
21 in the Michigan register ~~shall~~ MAY be prorated by the
22 ~~legislative service bureau~~ OFFICE OF REGULATORY REFORM on the
23 basis of the volume of these materials published for each agency
24 in the Michigan register and annual supplement to the Michigan
25 administrative code, and the cost of publishing and distribution
26 shall be paid out of appropriations to the agencies.

1 Sec. 58. (1) When requested by an agency, the ~~legislative~~
2 ~~service bureau~~ OFFICE OF REGULATORY REFORM shall prepare
3 reproduction proofs or negatives of the rules, or a portion of
4 the rules, of the agency. The requesting agency shall reimburse
5 the ~~legislative service bureau~~ OFFICE OF REGULATORY REFORM for
6 preparing the reproduction proofs or negatives, and the cost of
7 the preparation shall be paid out of appropriations to the
8 agency.

9 (2) The Michigan administrative code may be arranged and
10 printed to make convenient the publication ELECTRONICALLY OR in
11 separate pamphlets of the parts of the MICHIGAN ADMINISTRATIVE
12 code relating to different agencies. Agencies may order the sep-
13 arate pamphlets, and the cost of the pamphlets shall be paid out
14 of appropriations to the agencies.

15 Sec. 59. (1) The ~~legislative service bureau~~ OFFICE OF
16 REGULATORY REFORM shall publish or order published a sufficient
17 number of copies of the Michigan register, the Michigan adminis-
18 trative code, and the annual supplement to the MICHIGAN
19 ADMINISTRATIVE code to meet the requirements of this section.
20 Unless otherwise directed by the ~~legislative service bureau~~
21 OFFICE OF REGULATORY REFORM, the department of management and
22 budget shall deliver or provide copies as follows:

23 (a) To the secretary of the senate, a sufficient number to
24 supply each senator.

25 (b) To the clerk of the house of representatives, a suffi-
26 cient number to supply each representative.

1 (2) The copies of the Michigan register, the Michigan
2 administrative code, and the annual MICHIGAN ADMINISTRATIVE code
3 supplement are for official use only by the agencies and persons
4 prescribed in subsection (1), and they shall deliver them to
5 their successors. The department of management and budget shall
6 hold additional copies for sale at a price not less than the pub-
7 lication and distribution costs which shall be determined by the
8 ~~legislative service bureau~~ OFFICE OF REGULATORY REFORM. ANY
9 MONEY COLLECTED BY THE DEPARTMENT OF MANAGEMENT AND BUDGET FOR
10 THE ADMINISTRATIVE CODE UNDER THIS SUBSECTION IS TO BE DEPOSITED
11 INTO THE GENERAL FUND.

12 (3) A person may subscribe to the Michigan register, THE
13 MICHIGAN ADMINISTRATIVE CODE, AND THE ANNUAL SUPPLEMENT TO THE
14 MICHIGAN ADMINISTRATIVE CODE. The ~~legislative service bureau~~
15 OFFICE OF REGULATORY REFORM shall determine a subscription price
16 ~~which~~ THAT shall not be more than the publication and distribu-
17 tion costs.

18 Enacting section 1. This amendatory act takes effect
19 [April] 1, 2000.

20 Enacting section 2. This amendatory act does not take
21 effect unless all of the following bills of the 90th Legislature
22 are enacted into law:

23 (a) Senate Bill No. 878.

24 (b) Senate Bill No. 879.