

Act No. 262
Public Acts of 1999
Approved by the Governor
December 28, 1999
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**STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 1999**

Introduced by Senators Hammerstrom, Steil and North

ENROLLED SENATE BILL No. 877

AN ACT to amend 1969 PA 306, entitled "An act to provide for the effect, processing, promulgation, publication, and inspection of state agency rules, determinations, and other matters; to provide for the printing, publishing, and distribution of the Michigan register; to provide for state agency administrative procedures and contested cases and appeals from contested cases in licensing and other matters; to provide for declaratory judgments as to rules; to repeal certain acts and parts of acts; and to repeal certain parts of this act on a specific date," 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:

TITLE

An act to provide for the effect, processing, promulgation, publication, and inspection of state agency rules, determinations, and other matters; to provide for the printing, publishing, and distribution of certain publications; to provide for state agency administrative procedures and contested cases and appeals from contested cases in licensing and other matters; to create and establish certain committees and offices; to provide for declaratory judgments as to rules; to repeal certain acts and parts of acts; and to repeal certain parts of this act on a specific date.

Sec. 5. (1) "License" includes the whole or part of an agency permit, certificate, approval, registration, charter, or similar form of permission required by law, but does not include a license required solely for revenue purposes, or a license or registration issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(2) "Licensing" includes agency activity involving the grant, denial, renewal, suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of a license.

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

(4) "Notice of objection" means the document adopted by the committee that indicates the committee's formal objection to a proposed rule.

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

(6) "Person" means an individual, partnership, association, corporation, governmental subdivision, or public or private organization of any kind other than the agency engaged in the particular processing of a rule, declaratory ruling, or contested case.

(7) "Processing of a rule" means the action required or authorized by this act regarding a rule which is to be promulgated, including the rule's adoption, and ending with the rule's promulgation.

(8) "Promulgation of a rule" means that step in the processing of a rule consisting of the filing of a rule with the secretary of state.

Sec. 7. "Rule" means an agency regulation, statement, standard, policy, ruling, or instruction of general applicability that implements or applies law enforced or administered by the agency, or that prescribes the organization, procedure, or practice of the agency, including the amendment, suspension, or rescission of the law enforced or administered by the agency. Rule does not include any of the following:

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

(b) A formal opinion of the attorney general.

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

(d) A rule or order pertaining to game and fish and promulgated under parts 401, 411, and 487 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40101 to 324.40119, 324.41101 to 324.41105, and 324.48701 to 324.48740.

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

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

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

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

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

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

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

(l) All of the following, after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217:

(i) The designation, deletion, or revision of covered medical equipment and covered clinical services.

(ii) Certificate of need review standards.

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

(iv) Standards used by the department of community health in designating a regional certificate of need review agency.

(v) The modification of the 100 licensed bed limitation for short-term nursing care programs set forth in section 22210 of the public health code, 1978 PA 368, MCL 333.22210.

(m) A policy developed by the family independence agency under section 6(3) of the social welfare act, 1939 PA 250, MCL 400.6, setting income and asset limits, types of income and assets to be considered for eligibility, and payment standards for administration of assistance programs under that act.

(n) A policy developed by the family independence agency under section 6(4) of the social welfare act, 1939 PA 280, MCL 400.6, to implement requirements that are mandated by federal statute or regulations as a condition of receipt of federal funds.

(o) The provisions of an agency's contract with a public or private entity including, but not limited to, the provisions of an agency's standard form contract.

(p) A policy developed by the department of community health under the authority granted in section 111a of the social welfare act, 1939 PA 280, MCL 400.111a, to implement policies and procedures necessary to operate its health care programs in accordance with an approved state plan or in compliance with state statute.

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

Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

(a) Executive orders and executive reorganization orders.

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

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

(d) Proposed administrative rules.

(e) Notices of public hearings on proposed administrative rules.

(f) Administrative rules filed with the secretary of state.

(g) Emergency rules filed with the secretary of state.

(h) Notice of proposed and adopted agency guidelines.

(i) Other official information considered necessary or appropriate by the office of regulatory reform.

(j) Attorney general opinions.

(k) All of the items listed in section 7(l) after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217.

(2) The office of regulatory reform shall publish a cumulative index for the Michigan register.

(3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.

(4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.

(5) An agency shall transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

Sec. 24. (1) Before the adoption of a guideline, an agency shall give notice of the proposed guideline to the committee, the office of regulatory reform, and each person who requested the agency in writing for advance notice of proposed action which may affect the person. The committee shall provide the notice of the proposed guideline not later than the next business day after receipt of the notice from the agency to members of the committee and to members of the standing committees of the senate and house of representatives that deal with the subject matter of the proposed guideline. The notice shall be given by mail, in writing, to the last address specified by the person. A request for notice is renewable each December.

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

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

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

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

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

Sec. 25. When adopted, a guideline is a public record. Copies of guidelines shall be sent to the committee, the office of regulatory reform, and all persons who have requested the agency in writing for advance notice of proposed action which may affect them.

Sec. 28. (1) Before the adoption of a standard form contract that would have been considered a rule but for the exemption from rule-making under section 7(o) or a policy exempt from rule-making under section 7(p), an agency shall give notice of the proposed standard form contract or policy to the committee and the office of regulatory reform. The committee shall provide a copy of the notice not later than the next business day after receipt of the notice from the

agency to members of the committee and to members of the standing committees of the senate and house of representatives that deal with the subject matter of the proposed standard form contract or policy.

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

(a) A statement of the terms of substance of the proposed standard form contract or policy, a description of the subjects and issues involved, and the proposed effective date of the standard form contract or policy.

(b) A statement that the addressee may express any views or arguments regarding the proposed standard form contract or policy or the standard form contract's or policy's effect on a person.

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

(d) A reference to the specific statutory provision under which the standard form contract or policy is issued.

(3) If the value of a proposed standard form contract exempt from rule-making under section 7(o) is \$10,000,000.00 or more, the notice required under subsection (1) shall include a copy of the proposed standard form contract. If the value of the proposed standard form contract exempt from rule-making under section 7(o) is less than \$10,000,000.00, the department shall provide a copy of the proposed standard form contract or policy to any legislator requesting a copy.

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

(2) An agency shall promulgate rules prescribing its procedures available to the public and the methods by which the public may obtain information and submit requests.

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

Sec. 34. (1) The office of regulatory reform is an independent and autonomous type 1 agency within the department of management and budget. The office of regulatory reform has the powers and duties as set forth in executive order no. 1995-6 (executive reorganization order no. 1995-5), MCL 10.151, and shall exercise the powers and perform the duties prescribed by subsection (2) independently of the principal executive departments of this state, including, but not limited to, personnel, budgeting, procurement, and management-related functions.

(2) In addition to any other powers and duties described in subsection (1), the office of regulatory reform shall review proposed rules, coordinate processing of rules by agencies, work with the agencies to streamline the rule-making process, and consider efforts designed to improve public access to the rule-making process.

Sec. 36. The office of regulatory reform may prescribe procedures and standards not inconsistent with this act or other applicable statutes for the drafting of rules, publication of required notices, and distribution of rules. The office of regulatory reform may prescribe procedures and standards not inconsistent with this act or other applicable statutes for the processing of rules within the executive branch. The procedures and standards shall be included in a manual which the office of regulatory reform shall publish and distribute in reasonable quantities to the state departments and the committee.

Sec. 39. (1) Before initiating any changes or additions to rules, an agency shall file with the office of regulatory reform a request for rule-making on a form prescribed by the office of regulatory reform. The request for rule-making shall include the following:

(a) The state or federal statutory or regulatory basis for the rule.

(b) The problem the rule intends to address.

(c) An assessment of the significance of the problem.

(2) An agency shall not proceed with the processing of a rule outlined in this chapter unless the office of regulatory reform has approved the request for rule-making.

(3) The office of regulatory reform shall record the receipt of all requests for rule-making on the internet and shall make copies of approved requests for rule-making available to members of the general public upon request.

(4) The office of regulatory reform shall immediately make available to the committee copies of the request for rule-making 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 provide a copy of the approved and denied requests for rule-making, not later than the next business day after receipt of the notice from the office of regulatory reform, to members of the committee and to members of the standing committees of the senate and house of representatives that deal with the subject matter of the proposed rule.

Sec. 39a. (1) An agency may publish the notice of hearing under section 42 only if the office of regulatory reform has received draft proposed rules and has given the agency approval to proceed with a public hearing.

(2) After a grant of approval to hold a public hearing by the office of regulatory reform under subsection (1), the office of regulatory reform shall immediately provide a copy of the proposed rules to the committee. The committee shall provide a copy of the proposed rules, not later than the next business day after receipt of the notice from the office of regulatory reform, to members of the committee and to members of the standing committees of the senate and house of representatives that deal with the subject matter of the proposed rule.

Sec. 40. (1) When an agency proposes to adopt a rule that will apply to a small business and the rule will have a disproportionate impact on small businesses because of the size of those businesses, the agency proposing to adopt the rule shall reduce the economic impact of the rule on small businesses by doing 1 or more of the following when it is lawful and feasible in meeting the objectives of the act authorizing the promulgation of the rule:

- (a) Establish differing compliance or reporting requirements or timetables for small businesses under the rule.
- (b) Consolidate or simplify the compliance and reporting requirements for small businesses under the rule.
- (c) Establish performance rather than design standards, when appropriate.
- (d) Exempt small businesses from any or all of the requirements of the rule.

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

- (a) 0-9 full-time employees.
- (b) 10-49 full-time employees.
- (c) 50-249 full-time employees.

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

(4) This section and section 45(3) do not apply to a rule which is required by federal law and which an agency promulgates without imposing standards more stringent than those required by the federal law.

Sec. 41a. A member of the legislature may annually submit a written request to the office of regulatory reform requesting that a copy of all proposed rules or changes in rules, or any designated proposed rules or changes in rules submitted to the office of regulatory reform for its approval, be transmitted to the requesting member upon receipt of the same by the office of regulatory reform.

Sec. 42. (1) Except as provided in section 44, at a minimum, an agency shall publish the notice of public hearing as prescribed in any applicable statute or, if none, the agency shall publish the notice not less than 10 days and not more than 60 days before the date of the public hearing in at least 3 newspapers of general circulation in different parts of the state, 1 of which shall be in the Upper Peninsula.

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

(3) In addition to the requirements of subsection (1), the agency shall submit a copy of the notice of public hearing to the office of regulatory reform for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the office of regulatory reform. Within 7 days after receipt of the notice of public hearing, the office of regulatory reform shall do all of the following before the public hearing:

- (a) Forward a copy of the notice of public hearing to the committee.
- (b) Provide notice electronically through publicly accessible internet media.

(4) After the office of regulatory reform forwards a copy of the notice of public hearing to the committee, the committee shall send copies of the notice of public hearing, not later than the next business day after receipt of the notice from the office of regulatory reform, to each member of the committee and to the members of the standing committees of the senate and house of representatives that deal with the subject matter of the proposed rule.

(5) After receipt of the notice of public hearing filed under subsection (3), the committee may meet to consider the proposed rule, take testimony, and provide the agency with the committee's informal response to the rule.

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

(2) Sections 41 and 42 do not apply to a rule that is promulgated under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094, that is substantially similar to an existing federal standard that has been adopted or promulgated under the occupational safety and health act of 1970, Public Law 91-596, 84 Stat. 1590. However, notice of the proposed rule shall be published in the Michigan register at least 35 days before the submission

of the rule to the secretary of state pursuant to section 46(4). A reasonable period, not to exceed 21 days, shall be provided for the submission of written comments and views following publication in the Michigan register.

(3) For purposes of subsection (2), “substantially similar” means identical, with the exception of style or format differences needed to conform to this or other state laws, as determined by the office of regulatory reform pursuant to section 45(1).

Sec. 45. (1) If approved by the office of regulatory reform, the agency may submit the proposed rule to the legislative service bureau for its formal certification. The legislative service bureau promptly shall approve a proposed rule if it considers the proposed rule to be proper as to all matters of form, classification, and arrangement. The office of regulatory reform may approve a proposed rule if it considers the proposed rule to be legal.

(2) Except as provided in subsection (6), after notice is given as provided in this act and before the agency proposing the rule has formally adopted the rule, the agency shall prepare an agency report containing a synopsis of the comments contained in the public hearing record and shall describe any changes in the proposed rules that were made by the agency after the public hearing. The office of regulatory reform shall transmit by letter to the committee copies of the rule, the agency reports, and certificates of approval from the legislative service bureau and the office of regulatory reform. The number of copies transmitted shall be the number required in the committee procedures and standards but not to exceed 12 copies. The agency shall transmit to the committee the documents described in this subsection within 1 year after the date of the last public hearing on the proposed rule unless the proposed rule is a resubmission under section 45a(7).

(3) Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the letter of transmittal a regulatory impact statement containing all of the following information:

(a) A comparison of the proposed rule to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

(b) An identification of the behavior and frequency of behavior that the rule is designed to alter.

(c) An identification of the harm resulting from the behavior that the rule is designed to alter and the likelihood that the harm will occur in the absence of the rule.

(d) An estimate of the change in the frequency of the targeted behavior expected from the rule.

(e) An identification of the businesses, groups, or individuals who will be directly affected by, bear the cost of, or directly benefit from the rule.

(f) An identification of any reasonable alternatives to regulation pursuant to the proposed rule that would achieve the same or similar goals.

(g) A discussion of the feasibility of establishing a regulatory program similar to that proposed in the rule that would operate through market-based mechanisms.

(h) An estimate of the cost of rule imposition on the agency promulgating the rule.

(i) An estimate of the actual statewide compliance costs of the proposed rule on individuals.

(j) An estimate of the actual statewide compliance costs of the proposed rule on businesses and other groups.

(k) An identification of any disproportionate impact the proposed rule may have on small businesses because of their size.

(l) An identification of the nature of any report and the estimated cost of its preparation by small business required to comply with the proposed rule.

(m) An analysis of the costs of compliance for all small businesses affected by the proposed rule, including costs of equipment, supplies, labor, and increased administrative costs.

(n) An identification of the nature and estimated cost of any legal consulting and accounting services that small businesses would incur in complying with the proposed rule.

(o) An estimate of the ability of small businesses to absorb the costs estimated under subdivisions (l) through (n) without suffering economic harm and without adversely affecting competition in the marketplace.

(p) An estimate of the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

(q) An identification of the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

(r) A statement describing the manner in which the agency reduced the economic impact of the rule on small businesses or a statement describing the reasons such a reduction was not feasible.

(s) A statement describing whether and how the agency has involved small businesses in the development of the rule.

(t) An estimate of the primary and direct benefits of the rule.

(u) An estimate of any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the rule.

(v) An estimate of any increase in revenues to state or local governmental units as a result of the rule.

(w) An estimate of any secondary or indirect benefits of the rule.

(x) An identification of the sources the agency relied upon in compiling the regulatory impact statement.

(y) Any other information required by the office of regulatory reform.

(4) The agency shall transmit the regulatory impact statement required under subsection (3) to the office of regulatory reform at least 28 days before the public hearing required pursuant to section 42. Before the public hearing can be held, the regulatory impact statement must be approved by the office of regulatory reform. The agency shall also transmit a copy of the regulatory impact statement to the committee before the public hearing and the agency shall make copies available to the public at the public hearing.

(5) The committee shall furnish the senate fiscal agency and the house fiscal agency with a copy of each rule and regulatory impact statement filed with the committee, as well as a copy of the agenda identifying the proposed rules to be considered by the committee. The senate fiscal agency and the house fiscal agency shall analyze each proposed rule for possible fiscal implications which, if adopted, would result in additional appropriations in the current fiscal year or commit the legislature to an appropriation in a future fiscal year. The senate fiscal agency and the house fiscal agency shall report their findings in writing to the senate and house appropriations committees and to the committee before the date of consideration of the proposed rule by the committee.

(6) Subsections (2), (3), and (4) do not apply to a rule that is promulgated under sections 33, 44, and 48.

Sec. 45a. (1) Except as otherwise provided for in subsections (7) and (8), after receipt by the committee of the letter of transmittal specified in section 45(2), the committee has 21 calendar days in which to consider the rule and to object to the rule by filing a notice of objection approved by a concurrent majority of the committee members. A notice of objection may only be approved by the committee if the committee affirmatively determines by a concurrent majority that 1 or more of the following conditions exist:

(a) The agency lacks statutory authority for the rule.

(b) The agency is exceeding the statutory scope of its rule-making authority.

(c) There exists an emergency relating to the public health, safety, and welfare that would warrant disapproval of the rule.

(d) The rule is in conflict with state law.

(e) A substantial change in circumstances has occurred since enactment of the law upon which the proposed rule is based.

(f) The rule is arbitrary or capricious.

(g) The rule is unduly burdensome to the public or to a licensee licensed by the rule.

(2) If the committee does not file a notice of objection within the time period prescribed in subsection (1), the office of regulatory reform may immediately file the rule with the secretary of state. The rule shall take effect 7 days after the date of its filing unless a later date is indicated within the rule.

(3) If the committee files a notice of objection within the time period prescribed in subsection (1), the committee chair, the alternate chair, or any member of the committee shall cause bills to be introduced in both houses of the legislature simultaneously. Each house shall place the bill or bills directly on its calendar. The bills shall contain 1 or more of the following:

(a) A rescission of a rule upon its effective date.

(b) A repeal of the statutory provision under which the rule was authorized.

(c) A bill staying the effective date of the proposed rule for up to 1 year.

(4) The notice of objection filed under subsection (3) stays the ability of the office of regulatory reform to file the rule with the secretary of state for the following time periods:

(a) Except as provided in subdivision (b) or (c), 21 consecutive calendar days.

(b) If both houses of the legislature are not in session for more than 14 consecutive calendar days but 21 or less consecutive calendar days following the filing of a notice of objection, the 21-day time period described in subdivision (a) shall toll, with the remainder of the 21-day time period available for consideration upon the return of both houses. In no case under this subdivision shall the combined time period for consideration by the committee and full legislature exceed 63 consecutive calendar days.

(c) If both houses of the legislature are not in session more than 21 consecutive calendar days following the filing of a timely notice of objection, the 21-day time period described in subdivision (a) shall toll, with the remainder of the 21-day time period available for consideration upon the return of both houses.

(5) If the legislation introduced pursuant to subsection (3) is defeated in either house and if the vote by which the legislation failed to pass is not reconsidered in compliance with the rules of that house, or if legislation introduced pursuant to subsection (3) is not adopted by both houses within the time period specified in subsection (4), the office of regulatory reform may file the rule with the secretary of state. Upon filing with the secretary of state, the rule shall take effect 7 days after the filing date unless a later date is specified within the rule.

(6) If the legislation introduced pursuant to subsection (3) is enacted by the legislature and presented to the governor within the 21-day period, the rules do not become effective unless the legislation is vetoed by the governor as provided by law. If the governor vetoes the legislation, the office of regulatory reform may file the rules immediately. The rule shall take effect 7 days after the date of its filing unless a later effective date is indicated within the rule.

(7) An agency may withdraw a proposed rule under the following conditions:

(a) With permission of the chair and alternate chair, the agency may withdraw the rule and resubmit it. If permission to withdraw is granted, the 21-day time period described in subsection (1) is tolled until the rule is resubmitted, except that the committee shall have at least 7 calendar days after resubmission to consider the resubmitted rule. The period of time between withdrawal and resubmission of the rule is not counted toward the 63-day limit for rule consideration described in subsection (4)(b).

(b) Without permission of the chair and alternate chair, the agency may withdraw the rule and resubmit it. If permission to withdraw is not granted, a new and untolled 21-day time period described in subsection (1) shall begin upon resubmission of the rule to the committee for consideration.

(8) Subsections (1) through (5) do not apply to rules adopted under sections 33, 44, and 48.

Sec. 46. (1) To promulgate a rule the office of regulatory reform shall file in the office of the secretary of state 3 copies of the rule bearing the required certificates of approval and adoption and true copies of the rule without the certificates. The office of regulatory reform shall not file a rule, except an emergency rule under section 48 and rules processed under sections 33 and 44, until the time periods for committee and legislative consideration described in section 45a have elapsed.

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

(3) The secretary of state, as often as he or she considers it advisable, shall cause to be arranged and bound in a substantial manner the rules hereafter filed in his or her office with their attached certificates and published in a supplement to the Michigan administrative code. The secretary of state shall certify under his or her hand and seal of the state on the frontispiece of each volume that it contains all of the rules filed and published for a specified period. The rules, when so bound and certified, shall be kept in the office of the secretary of state and no further record of the rules is required to be kept. The bound rules are subject to public inspection.

Sec. 47. (1) Except in case of a rule processed under section 48, a rule becomes effective on the date fixed in the rule, which shall not be earlier than 7 days after the date of its promulgation, or if a date is not so fixed then 7 days after the date of promulgation.

(2) Except in case of a rule processed under section 48, an agency may withdraw a promulgated rule which has not become effective by filing a written request stating reasons for withdrawal to the secretary of state on or before the last day for filing rules for the interim period in which the rules were first filed, or by filing a written request for withdrawal to the secretary of state and the office of regulatory reform, within a reasonable time as determined by the office of regulatory reform, after the last day for filing and before publication of the rule in the next supplement to the code. In any other case an agency may abrogate its rule only by rescission. When an agency has withdrawn a promulgated rule, it shall give notice, stating reasons, to the committee that the rule has been withdrawn.

(3) Sections 45 and 45a apply to rules for which a public hearing has not been held by April 1, 2000.

Sec. 48. (1) If an agency finds that preservation of the public health, safety, or welfare requires promulgation of an emergency rule without following the notice and participation procedures required by sections 41 and 42 and states in the rule the agency's reasons for that finding, and the governor concurs in the finding of emergency, the agency may dispense with all or part of the procedures and file in the office of the secretary of state the copies prescribed by section 46 indorsed as an emergency rule, to 3 of which copies shall be attached the certificates prescribed by section 45 and the governor's certificate concurring in the finding of emergency. The emergency rule is effective on filing and remains in effect until a date fixed in the rule or 6 months after the date of its filing, whichever is earlier. The rule may be extended once for not more than 6 months by the filing of a governor's certificate of the need for the extension with the office of the secretary of state before expiration of the emergency rule. An emergency rule shall not be numbered and shall not be compiled in the Michigan administrative code, but shall be noted in the annual supplement to the code. The emergency rule shall be published in the Michigan register pursuant to section 8.

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

Sec. 52. If authorized by concurrent resolution of the legislature, the committee, acting between regular sessions, may suspend a rule or a part of a rule promulgated during the interim between regular sessions. The committee shall notify the agency promulgating the rule, the secretary of state, the department of management and budget, and the legislative service bureau and office of regulatory reform of any rule or part of a rule the committee suspends, and the rule or part of a rule shall not be published in the Michigan register or in the Michigan administrative code while suspended. A rule suspended by the committee continues to be suspended no longer than the end of the next regular legislative session.

Sec. 53. (1) Each agency shall prepare an annual regulatory plan that reviews the agency's rules. The annual regulatory plan shall be transmitted to the office of regulatory reform.

(2) In completing the annual regulatory plan required by this section, the agency shall identify the rules it reasonably expects to process in the next year, the mandatory statutory rule authority it has not exercised, and the rules it expects to rescind in the next year.

(3) The annual regulatory plans completed pursuant to this section are advisory only and do not otherwise bind the agency or in any way prevent additional action.

(4) Annual regulatory plans completed under subsection (1) shall be filed with the office of regulatory reform by July 1 of each year. After the office of regulatory reform approves the plan for review, the office of regulatory reform shall provide a copy of the plan of review to the committee. The committee shall provide a copy of each agency plan of review, not later than the next business day after receipt of the plan of review from the office of regulatory reform, to members of the committee and to members of the standing committees of the senate and house of representatives that deal with the subject matter of rules the agency may propose.

Sec. 54. Failure of the committee to provide any notices required under section 24, 28, 39, 39a, or 42 does not affect the validity of the processing or adoption of a rule.

Sec. 55. (1) The office of regulatory reform annually shall publish a supplement to the Michigan administrative code. The annual supplement shall contain all promulgated rules published in the Michigan register during the current year, except emergency rules, a cumulative numerical listing of amendments and additions to, and rescissions of rules since the last compilation of the Michigan administrative code, and a cumulative alphabetical index.

(2) The Michigan administrative code and, if applicable, the annual supplements shall be made available by the office of regulatory reform free of charge on the internet and in printed or other electronic format for public subscription at a fee reasonably calculated to cover publication and distribution costs.

Sec. 56. (1) The office of regulatory reform shall perform the editorial work for the Michigan register and the Michigan administrative code and its annual supplement. The classification, arrangement, numbering, and indexing of rules shall be under the ownership and control of the office of regulatory reform, shall be uniform, and shall conform as nearly as practicable to the classification, arrangement, numbering, and indexing of the compiled laws. The office of regulatory reform may correct in the publications obvious errors in rules when requested by the promulgating agency to do so. The office of regulatory reform may provide for publishing all or any part of the Michigan administrative code in bound volume, pamphlet, electronic, or loose-leaf form. This subsection does not prevent a legislator from providing a copy or reproduction of a rule to a member of the general public.

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

Sec. 57. (1) The office of regulatory reform may omit from the Michigan register, the Michigan administrative code, and the Michigan administrative code's annual supplement any rule, the publication of which would be unreasonably expensive or lengthy if the rule in printed or reproduced form is made available on application to the promulgating agency, if the Michigan administrative code publication and the Michigan register contain a notice stating the general subject of the omitted rule and how a copy of the rule may be obtained.

(2) The cost of publishing and distributing annual supplements to the Michigan administrative code and proposed rules, notices of public hearings on proposed rules, rules and emergency rules filed with the secretary of state, notices of proposed and adopted agency guidelines, and the items listed in section 7(l) in the Michigan register may be prorated by the office of regulatory reform on the basis of the volume of these materials published for each agency in the Michigan register and annual supplement to the Michigan administrative code, and the cost of publishing and distribution shall be paid out of appropriations to the agencies.

Sec. 58. (1) When requested by an agency, the office of regulatory reform shall prepare reproduction proofs or negatives of the rules, or a portion of the rules, of the agency. The requesting agency shall reimburse the office of regulatory reform for preparing the reproduction proofs or negatives, and the cost of the preparation shall be paid out of appropriations to the agency.

(2) The Michigan administrative code may be arranged and printed to make convenient the publication electronically or in separate pamphlets of the parts of the Michigan administrative code relating to different agencies. Agencies may order the separate pamphlets, and the cost of the pamphlets shall be paid out of appropriations to the agencies.

Sec. 59. (1) The office of regulatory reform shall publish or order published a sufficient number of copies of the Michigan register, the Michigan administrative code, and the annual supplement to the Michigan administrative code to meet the requirements of this section. Unless otherwise directed by the office of regulatory reform, the department of management and budget shall deliver or provide copies as follows:

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

(b) To the clerk of the house of representatives, a sufficient number to supply each representative.

(2) The copies of the Michigan register, the Michigan administrative code, and the annual Michigan administrative code supplement are for official use only by the agencies and persons prescribed in subsection (1), and they shall deliver them to their successors. The department of management and budget shall hold additional copies for sale at a price not less than the publication and distribution costs which shall be determined by the office of regulatory reform. Any money collected by the department of management and budget for the administrative code under this subsection is to be deposited into the general fund.

(3) A person may subscribe to the Michigan register, the Michigan administrative code, and the annual supplement to the Michigan administrative code. The office of regulatory reform shall determine a subscription price that shall not be more than the publication and distribution costs.

Enacting section 1. This amendatory act takes effect April 1, 2000.

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

(a) Senate Bill No. 878.

(b) Senate Bill No. 879.

Carol Morey Viventi

Secretary of the Senate.

Ray E. Randall

Clerk of the House of Representatives.

Approved

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Governor.