

SENATE BILL No. 1303

May 7, 2008, Introduced by Senators HARDIMAN, PAPPAGEORGE, CROPSEY, RICHARDVILLE, BIRKHOLZ, McMANUS, KAHN, GEORGE, BROWN, VAN WOERKOM, KUIPERS, ALLEN, STAMAS, JANSEN and SANBORN and referred to the Committee on Government Operations and Reform.

A bill to amend 1969 PA 306, entitled
"Administrative procedures act of 1969,"
by amending section 45 (MCL 24.245), as amended by 2004 PA 491.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 45. (1) Except as otherwise provided for in this
2 subsection, the agency shall submit the proposed rule to the
3 legislative service bureau for its formal certification. The
4 submission to the legislative service bureau for formal
5 certification shall be in the form of electronic transmission. If
6 requested by the legislative service bureau, the office of
7 regulatory reform shall also transmit up to 4 paper copies of the
8 proposed rule. The legislative service bureau shall promptly issue
9 a certificate of approval indicating a determination that a
10 proposed rule is proper as to all matters of form, classification,

1 and arrangement. If the legislative service bureau fails to issue a
2 certificate of approval within 21 calendar days after receipt of
3 the submission for formal certification, the **STATE** office of
4 ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES** may issue a
5 certificate of approval. If the submission to the legislative
6 service bureau is returned by the legislative service bureau to the
7 agency before the expiration of the 21-calendar-day time period,
8 the 21-calendar-day time period is tolled until the rule is
9 resubmitted by the agency. The remainder of the 21-calendar-day
10 time period or 6 calendar days, whichever is longer, shall be
11 available for consideration by the legislative service bureau for
12 formal certification of the rule. The **STATE** office of ~~regulatory~~
13 ~~reform~~ **ADMINISTRATIVE HEARINGS AND RULES** may approve a proposed
14 rule if it considers the proposed rule to be legal.

15 (2) Except as provided in subsection (6), after notice is
16 given as provided in this act and before the agency proposing the
17 rule has formally adopted the rule, the agency shall prepare an
18 agency report containing a synopsis of the comments contained in
19 the public hearing record and a copy of the regulatory impact
20 statement required under subsection (3). In the report, the agency
21 shall describe any changes in the proposed rules that were made by
22 the agency after the public hearing. The **STATE** office of ~~regulatory~~
23 ~~reform~~ **ADMINISTRATIVE HEARINGS AND RULES** shall transmit by notice
24 of transmittal to the committee copies of the rule, the agency
25 reports, a copy of the regulatory impact statement, and
26 certificates of approval from the legislative service bureau and
27 the **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND**

1 **RULES.** The **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE**
2 **HEARINGS AND RULES** shall also electronically submit a copy of the
3 rule, any agency reports required under this subsection, any
4 regulatory impact statements required under subsection (3), and any
5 certificates of approval required under subsection (1) to the
6 committee. The agency shall electronically transmit to the
7 committee the records described in this subsection within 1 year
8 after the date of the last public hearing on the proposed rule
9 unless the proposed rule is a resubmission under section 45a(7).

10 (3) Except for a rule promulgated under sections 33, 44, and
11 48, the agency shall prepare and include with the notice of
12 transmittal a regulatory impact statement containing all of the
13 following information:

14 (a) A comparison of the proposed rule to parallel federal
15 rules or standards set by a state or national licensing agency or
16 accreditation association, if any exist. **THE AGENCY SHALL ALSO**
17 **INDICATE WHETHER THE PROPOSED RULE EXCEEDS ANY EXISTING FEDERAL**
18 **STANDARDS.**

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

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

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

26 (e) An identification of the businesses, groups, or
27 individuals who will be directly affected by, bear the cost of, or

1 directly benefit from the rule.

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

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

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

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

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

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

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

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

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

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

1 in the marketplace.

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

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

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

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

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

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

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

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

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

24 **(Y) AN ESTIMATE OF WHETHER IMPLEMENTATION OF THE RULE WOULD**
25 **ALLOW ANY GOVERNMENTAL AGENCY TO COMPETE IN THE REGULATED ACTIVITY**
26 **AGAINST THE PRIVATE SECTOR.**

27 **(Z)** ~~(y)~~ Any other information required by the **STATE** office of

1 ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES.**

2 (4) The agency shall electronically transmit the regulatory
3 impact statement required under subsection (3) to the **STATE** office
4 of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES** at least 28
5 days before the public hearing required pursuant to section 42.
6 Before the public hearing can be held, the regulatory impact
7 statement must be reviewed and approved by the **STATE** office of
8 ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES.** The agency
9 shall also electronically transmit a copy of the regulatory impact
10 statement to the committee before the public hearing and the agency
11 shall make copies available to the public at the public hearing.

12 (5) The committee shall electronically transmit to the senate
13 fiscal agency and the house fiscal agency a copy of each rule and
14 regulatory impact statement filed with the committee, as well as a
15 copy of the agenda identifying the proposed rules to be considered
16 by the committee. The senate fiscal agency and the house fiscal
17 agency shall analyze each proposed rule for possible fiscal
18 implications that, if the rule were adopted, would result in
19 additional appropriations in the current fiscal year or commit the
20 legislature to an appropriation in a future fiscal year. The senate
21 fiscal agency and the house fiscal agency shall electronically
22 report their findings to the senate and house appropriations
23 committees and to the committee before the date of consideration of
24 the proposed rule by the committee.

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