

HOUSE BILL No. 6236

June 2, 2010, Introduced by Rep. LeBlanc and referred to the Committee on Judiciary.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 45a. (1) Except as otherwise provided for in subsections
 2 (7) and (8), after receipt by the committee of the notice of
 3 transmittal specified in section 45(2), the committee has ~~15~~**25**
 4 session days in which to consider the rule and to object to the
 5 rule by filing a notice of objection approved by a concurrent
 6 majority of the committee members or the committee may, by
 7 concurrent majority, waive the remaining session days. If the
 8 committee waives the remaining session days, the clerk of the
 9 committee shall promptly notify the **STATE** office of ~~regulatory~~

1 ~~reform~~ **ADMINISTRATIVE HEARINGS AND RULES** of the waiver by
2 electronic transmission. A notice of objection may only be approved
3 by the committee if the committee affirmatively determines by a
4 concurrent majority that 1 or more of the following conditions
5 exist:

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

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

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

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

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

14 (f) The rule is arbitrary or capricious.

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

17 (2) If the committee does not file a notice of objection
18 within the time period prescribed in subsection (1) or if the
19 committee waives the remaining session days by concurrent majority,
20 the **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND**
21 **RULES** may immediately file the rule, with the certificate of
22 approval required under section 45(1), with the secretary of state.
23 The rule shall take effect immediately upon its filing unless a
24 later date is indicated within the rule.

25 (3) If the committee files a notice of objection within the
26 time period prescribed in subsection (1), the committee chair, the
27 alternate chair, or any member of the committee shall cause bills

1 to be introduced in both houses of the legislature simultaneously.
2 Each house shall place the bill or bills directly on its calendar.
3 The bills shall contain 1 or more of the following:

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

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

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

9 (4) The notice of objection filed under subsection (3) stays
10 the ability of the **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE**
11 **HEARINGS AND RULES** to file the rule with the secretary of state
12 until the earlier of the following:

13 (a) ~~Fifteen~~ **TWENTY-FIVE** session days after the notice of
14 objection is filed under subsection (3).

15 (b) The date of the rescission of the issuance of the notice
16 of objection, approved by a concurrent majority of the committee
17 members. The committee may meet to rescind the issuance of the
18 notice of objection under this subdivision. If the committee
19 rescinds the issuance of a notice of objection under this
20 subdivision, the clerk of the committee shall promptly notify the
21 **STATE** office of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES**
22 by electronic transmission of the rescission.

23 (5) If the legislation introduced pursuant to subsection (3)
24 is defeated in either house and if the vote by which the
25 legislation failed to pass is not reconsidered in compliance with
26 the rules of that house, or if legislation introduced pursuant to
27 subsection (3) is not adopted by both houses within the time period

1 specified in subsection (4), the **STATE** office of ~~regulatory reform~~
2 **ADMINISTRATIVE HEARINGS AND RULES** may file the rule with the
3 secretary of state. The rule shall take effect immediately upon
4 filing with the secretary of state unless a later date is specified
5 within the rule.

6 (6) If the legislation introduced pursuant to subsection (3)
7 is enacted by the legislature and presented to the governor within
8 the ~~15-session-day~~ **25-SESSION-DAY** period, the rules do not become
9 effective unless the legislation is vetoed by the governor as
10 provided by law. If the governor vetoes the legislation, the **STATE**
11 office of ~~regulatory reform~~ **ADMINISTRATIVE HEARINGS AND RULES** may
12 file the rules immediately. The rule shall take effect 7 days after
13 the date of its filing unless a later effective date is indicated
14 within the rule.

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

17 (a) With permission of the committee chair and alternate
18 chair, the agency may withdraw the rule and resubmit it. If
19 permission to withdraw is granted, the ~~15-session-day~~ **25-SESSION-**
20 **DAY** time period described in subsection (1) is tolled until the
21 rule is resubmitted, except that the committee shall have at least
22 6 session days after resubmission to consider the resubmitted rule.

23 (b) Without permission of the committee chair and alternate
24 chair, the agency may withdraw the rule and resubmit it. If
25 permission to withdraw is not granted, a new and untolled ~~15-~~
26 ~~session-day~~ **25-SESSION-DAY** time period described in subsection (1)
27 shall begin upon resubmission of the rule to the committee for

1 consideration.

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

4 (9) As used in this section only, "session day" means each day
5 in which both the house of representatives and the senate convene
6 in session.