

HOUSE BILL No. 5673

May 19, 2016, Introduced by Reps. Goike, Canfield, Victory, Lauwers, Barrett and Cole and referred to the Committee on Oversight and Ethics.

A bill to amend 1969 PA 306, entitled
"Administrative procedures act of 1969,"
by amending sections 5, 7a, 8, 32, 39, 39a, 41, 42, 43, 44, 45,
45a, 61, and 64 (MCL 24.205, 24.207a, 24.208, 24.232, 24.239,
24.239a, 24.241, 24.242, 24.243, 24.244, 24.245, 24.245a, 24.261,
and 24.264), section 5 as amended by 2006 PA 460, section 7a as
amended and section 39a as added by 1999 PA 262, sections 8 and 44
as amended by 2004 PA 23, section 32 as amended by 2011 PA 270,
section 39 as amended by 2011 PA 239, sections 41 and 42 as amended
by 2004 PA 491, section 43 as amended by 1989 PA 288, section 45 as
amended by 2013 PA 200, section 45a as amended by 2011 PA 245,
section 61 as amended by 1982 PA 413, and section 64 as amended by
2011 PA 243, and by adding sections 9, 10, 41b, and 44a; and to
repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. ~~(1)~~ **AS USED IN THIS ACT:**

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

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

11 **(C)** ~~(3)~~ "Michigan register" **REGISTER** means the publication
12 described in section 8.

13 **(D)** ~~(4)~~ "Notice" means a written or electronic record that
14 informs a person of past or future action of the person generating
15 the record.

16 **(E)** ~~(5)~~ "Notice of objection" means the record adopted by the
17 committee that indicates the committee's formal objection to a
18 proposed rule.

19 **(F)** "OFFICE" MEANS, UNLESS EXPRESSLY STATED OTHERWISE, THE
20 OFFICE OF PERFORMANCE AND TRANSFORMATION CREATED BY EXECUTIVE
21 REORGANIZATION ORDER NO. 2016-2, MCL 18.446.

22 **(G)** "OFFICE OF REGULATORY REFORM" AND "OFFICE OF REGULATORY
23 REINVENTION" MEAN THE OFFICE.

24 **(H)** ~~(6)~~ "Party" means a person or agency named, admitted, or
25 properly seeking and entitled of right to be admitted, as a party
26 in a contested case. In a contested case regarding an application
27 for a license, party includes the applicant for ~~that~~ **THE** license.

(I) ~~(7)~~—"Person" means an individual, partnership, association, corporation, limited liability company, limited liability partnership, 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.

(J) ~~(8)~~—"Processing of a rule" means the action required or authorized by this act regarding a rule that is to be promulgated, including the rule's adoption, and ending with the rule's promulgation.

(K) ~~(9)~~—"Promulgation of a rule" means that step in the processing of a rule consisting of the filing of a ~~THE~~ rule with the secretary of state.

(L) ~~(10)~~—"Record" means information that is inscribed on a paper or electronic medium.

Sec. 7a. **AS USED IN THIS ACT:**

(A) **"SESSION DAY" MEANS A DAY ON WHICH BOTH THE HOUSE OF REPRESENTATIVES AND THE SENATE CONVENE IN SESSION AND A QUORUM IS RECORDED IN BOTH HOUSES.**

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

(C) **"STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES" MEANS THE OFFICE.**

Sec. 8. (1) The office ~~of regulatory reform~~ shall publish the

Michigan ~~register~~ **REGISTER FREE OF CHARGE ON THE OFFICE'S INTERNET**
WEBSITE, UPDATING THE WEBSITE at least once each month. The

Michigan ~~register shall~~ **REGISTER MUST** 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.~~

(A) ~~(d)~~ Proposed administrative rules.

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

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

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

(E) ~~(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.~~

(F) ~~(k)~~ All of the items listed in section 7(m) after final
approval by the certificate of need commission under section 22215
of the public health code, 1978 PA 368, MCL 333.22215.

(2) The office ~~of regulatory reform shall publish~~ **INCLUDE IN**
THE PUBLICATION UNDER SUBSECTION (1) a cumulative index for the
Michigan ~~register~~ **REGISTER.**

~~—— (3) The Michigan register shall be available for public~~

1 ~~subscription at a fee reasonably calculated to cover publication~~
 2 ~~and distribution costs.~~

3 (3) ~~(4)~~—If publication of an agency's proposed rule or
 4 guideline or an item described in subsection ~~(1)(k)~~ **(1)(F)** would be
 5 unreasonably expensive or lengthy, the office ~~of regulatory reform~~
 6 may publish a brief synopsis of the proposed rule or guideline or
 7 item described in subsection ~~(1)(k)~~ **(1)(F)**, including information
 8 on how to obtain a complete copy of the proposed rule or guideline
 9 or item described in subsection ~~(1)(k)~~ **(1)(F)** from the agency at no
 10 cost.

11 (4) ~~(5)~~—An agency shall electronically transmit a copy of the
 12 proposed rules and ~~notice~~ **NOTICES** of public hearing ~~HEARINGS~~ to the
 13 office ~~of regulatory reform~~ for publication in the Michigan
 14 ~~register~~ **REGISTER**.

15 SEC. 9. (1) THE OFFICE SHALL PUBLISH THE MICHIGAN
 16 ADMINISTRATIVE CODE AND THE ANNUAL SUPPLEMENT TO THE MICHIGAN
 17 ADMINISTRATIVE CODE FREE OF CHARGE ON THE OFFICE'S INTERNET
 18 WEBSITE.

19 (2) THE OFFICE MAY PUBLISH THE MICHIGAN ADMINISTRATIVE CODE
 20 AND THE ANNUAL SUPPLEMENT TO THE MICHIGAN ADMINISTRATIVE CODE IN
 21 PRINTED OR OTHER ELECTRONIC FORMAT FOR PUBLIC SUBSCRIPTION AT A
 22 FEE, DETERMINED BY THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT, AND
 23 BUDGET, THAT IS REASONABLY CALCULATED TO COVER, BUT NOT TO EXCEED,
 24 THE PUBLICATION AND DISTRIBUTION COSTS. THE DEPARTMENT OF
 25 TECHNOLOGY, MANAGEMENT, AND BUDGET SHALL DEPOSIT MONEY COLLECTED
 26 FROM SUBSCRIPTIONS INTO THE GENERAL FUND.

27 (3) THE OFFICIAL MICHIGAN ADMINISTRATIVE CODE IS THAT

1 PUBLISHED OR MADE AVAILABLE ON THE OFFICE'S INTERNET WEBSITE FREE
2 OF CHARGE.

3 SEC. 10. (1) THE OFFICE SHALL DEVELOP AN INTERNET WEBSITE FOR
4 THE PUBLICATION OF PUBLIC NOTICES REQUIRED UNDER SECTION 42. THE
5 WEBSITE MUST BE FULLY OPERATIONAL BY DECEMBER 31, 2021.

6 (2) THE WEBSITE DEVELOPED UNDER THIS SECTION MAY ALSO BE USED
7 FOR THE PUBLICATION OF PUBLIC NOTICES THAT THIS STATE IS REQUIRED
8 BY OTHER LAW TO PUBLISH IN NEWSPAPERS OR OTHER PRINT PUBLICATIONS.

9 (3) THE WEBSITE DEVELOPED UNDER THIS SECTION MAY ALSO BE USED
10 TO ALLOW FOR PUBLIC COMMENTS ON A PROPOSED RULE.

11 (4) THE OFFICE MAY CONTRACT WITH A PERSON THAT IS NOT A
12 GOVERNMENTAL ENTITY TO DEVELOP THE INTERNET WEBSITE REQUIRED BY
13 THIS SECTION.

14 (5) AN AGENCY OR THE OFFICE THAT PUBLISHES A NOTICE UNDER
15 SECTION 42 BEFORE JANUARY 1, 2022 SHALL INCLUDE IN THE NOTICE A
16 STATEMENT THAT UNLESS ANOTHER STATUTE REQUIRES OTHERWISE, AFTER
17 DECEMBER 31, 2021, NOTICES UNDER SECTION 42 WILL NOT BE PUBLISHED
18 IN ANY NEWSPAPER BUT WILL BE PUBLISHED ON THE INTERNET WEBSITE
19 DEVELOPED UNDER THIS SECTION. THE STATEMENT MUST INCLUDE THE
20 INTERNET ADDRESS OF THE WEBSITE DEVELOPED UNDER THIS SECTION.

21 Sec. 32. (1) Definitions of words and phrases and rules of
22 construction prescribed in any statute that are made applicable to
23 all statutes of this state also apply to rules unless clearly
24 indicated to the contrary.

25 (2) A rule or exception to a rule ~~shall~~**MUST** not discriminate
26 in favor of or against any person. A person affected by a rule is
27 entitled to the same benefits as any other person under the same or

1 similar circumstances.

2 (3) The violation of a rule is a crime ~~when~~ **IF** so provided by
3 statute. ~~A~~ **AN AGENCY SHALL NOT PROMULGATE A** rule ~~shall not make~~
4 **THAT MAKES** an act or omission to act a crime or ~~prescribe~~ **THAT**
5 **PRESCRIBES** a criminal penalty for violation of a rule.

6 (4) An agency may adopt, by reference in its rules and without
7 publishing the adopted matter in full, all or any part of a code,
8 standard or regulation that has been adopted by an agency of the
9 United States or by a nationally recognized organization or
10 association. The reference ~~shall~~ **MUST** fully identify the adopted
11 matter by date and otherwise. The reference ~~shall~~ **MUST** not cover
12 any later amendments ~~and~~ **OR** editions of the adopted matter. ~~, but~~
13 ~~if~~ **IF** the agency wishes to incorporate ~~them~~ **A LATER AMENDMENT OR**
14 **EDITION** in ~~its~~ **A** rule, ~~it~~ **THE AGENCY** shall amend the rule or
15 promulgate a new rule. ~~therefor.~~ The agency shall have available
16 copies of the adopted matter for inspection and distribution to the
17 public at cost, and the rules ~~shall~~ **MUST** state where copies of the
18 adopted matter are available from the agency and the agency of the
19 United States or the national organization or association and the
20 cost of a copy ~~as of~~ **AT** the time the rule is adopted.

21 (5) A guideline, operational memorandum, bulletin,
22 interpretive statement, or form with instructions is not
23 enforceable by an agency, is considered merely advisory, and ~~shall~~
24 **MUST** not be given the force and effect of law. An agency shall not
25 rely ~~upon~~ **ON** a guideline, operational memorandum, bulletin,
26 interpretive statement, or form with instructions to support the
27 agency's decision to act or refuse to act if ~~that~~ **THE** decision is

1 subject to judicial review. A court shall not rely ~~upon~~ **ON** a
 2 guideline, operational memorandum, bulletin, interpretive
 3 statement, or form with instructions to uphold an agency decision
 4 to act or refuse to act.

5 (6) ~~Where~~ **IF** a statute provides that an agency may proceed by
 6 rule-making or by order and ~~an~~ **THE** agency proceeds by order ~~in lieu~~
 7 **INSTEAD** of rule-making, the order ~~shall~~ **MUST** not be given general
 8 applicability to persons who were not parties to the proceeding or
 9 contested case before the issuance of the order, unless the order
 10 was issued after public notice and a public hearing.

11 (7) **AN AGENCY SHALL NOT PROCEED WITH RULE-MAKING UNLESS THERE**
 12 **IS AN EXPRESS GRANT OF RULE-MAKING AUTHORITY IN STATUTE.** A rule
 13 ~~shall~~ **MUST** not exceed the rule-making delegation contained in the
 14 statute ~~authorizing~~ **THAT AUTHORIZES** the rule-making.

15 Sec. 39. (1) Before initiating any changes or additions to
 16 rules, an agency shall electronically file with the office ~~of~~
 17 ~~regulatory reinvention~~ a request for rule-making in a format
 18 prescribed by the office. ~~of regulatory reinvention.~~ The request
 19 for rule-making ~~shall~~ **MUST** include the following:

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

22 (b) The problem the rule intends to address.

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

24 (d) If applicable, the decision record.

25 (2) If an agency receives recommendations or comments by ~~any~~
 26 **AN** advisory committee or other advisory entity created by statute
 27 regarding a request for rule-making, the advisory committee or

1 entity shall issue to the agency a decision record.

2 (3) An agency shall not proceed with the processing of a rule
3 outlined in this chapter unless the office ~~of regulatory~~
4 ~~reinvention~~ has approved the request for rule-making. The office ~~of~~
5 ~~regulatory reinvention~~ is not required to approve a request for
6 rule-making and shall do so only ~~after it has indicated in its~~
7 ~~response to the request for rule-making submitted by an agency~~ **IF**
8 **IT DETERMINES** that there are appropriate and necessary policy and
9 legal bases for approving the request for rule-making. **IF THE**
10 **REQUEST FOR RULE-MAKING CONTAINS A RECOMMENDATION UNDER SECTION 44A**
11 **THAT PROMULGATION OF THE RULE BE EXPEDITED, THE OFFICE SHALL**
12 **CONSIDER THE RATIONALE GIVEN FOR EXPEDITING PROMULGATION AND**
13 **DETERMINE WHETHER THE PROMULGATION SHOULD BE EXPEDITED.**

14 (4) The office ~~of regulatory reinvention~~ shall record the
15 receipt of all requests for rule-making on the ~~internet~~ **INTERNET**
16 and shall make electronic or paper copies of approved requests for
17 rule-making available to members of the general public. The office
18 ~~of regulatory reinvention~~ shall issue a written or electronic
19 response to the request for rule-making that ~~specifically~~ **DOES ALL**
20 **OF THE FOLLOWING:**

21 (A) **SPECIFICALLY** addresses whether the **OFFICE HAS DETERMINED**
22 **UNDER SUBSECTION (3) THAT THE** request has appropriate and necessary
23 policy and legal bases for approving the request for rule-making.

24 (B) **IF APPLICABLE, INCLUDES ANY STATEMENT OR DETERMINATION**
25 **REQUIRED UNDER SECTION 44.**

26 (C) **IF THE REQUEST FOR RULE-MAKING CONTAINS A RECOMMENDATION**
27 **UNDER SECTION 44A THAT PROMULGATION OF THE RULE BE EXPEDITED,**

1 INCLUDES THE OFFICE'S DETERMINATION UNDER SUBSECTION (3) WHETHER
2 THE PROMULGATION SHOULD BE EXPEDITED.

3 (5) The office ~~of regulatory reinvention~~ shall immediately
4 make available to the committee electronic copies of ~~the~~ A request
5 for rule-making submitted to the office. ~~of regulatory reinvention.~~
6 On a weekly basis, the office ~~of regulatory reinvention~~ shall
7 electronically provide to the committee a listing of all requests
8 for rule-making approved or denied during the previous week. **IF THE**
9 **REQUEST FOR RULE-MAKING CONTAINS A RECOMMENDATION UNDER SECTION 44A**
10 **THAT PROMULGATION OF THE RULE BE EXPEDITED, THE OFFICE SHALL**
11 **INCLUDE IN THE LISTING ITS DETERMINATION UNDER SUBSECTION (3)**
12 **WHETHER THE PROMULGATION SHOULD BE EXPEDITED.**

13 (6) ~~The~~ NOT LATER THAN THE NEXT BUSINESS DAY AFTER RECEIPT OF
14 A LISTING OF APPROVED AND DENIED REQUESTS FOR RULE-MAKING UNDER
15 SUBSECTION (5), THE committee shall electronically provide a copy
16 of the ~~approved and denied requests for rule making, not later than~~
17 ~~the next business day after receipt of the notice from the office~~
18 ~~of regulatory reinvention,~~ **LISTING** to members of the committee and
19 to members of the standing committees of the senate and house of
20 representatives that deal with the subject matter of the proposed
21 rule.

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

26 (2) After a grant of approval to hold a public hearing by the
27 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.

(3) AN AGENCY SHALL NOT CHANGE THE TEXT OF A RULE THAT HAS BEEN SUBMITTED TO AND RECEIVED BY THE OFFICE UNDER SUBSECTION (1) UNLESS THE CHANGE IS ALLOWED UNDER THIS ACT.

Sec. 41. (1) ~~Except as provided in section 44,~~ **SUBJECT TO SUBSECTION (6)**, before the adoption of a rule, an agency, or the office, ~~of regulatory reform~~, shall give notice of a public hearing and offer a person an opportunity to present data, views, questions, and arguments. The notice ~~shall~~ **MUST** be given within the time prescribed by any applicable statute, or, if none, ~~THERE IS NO TIME PRESCRIBED BY ANY APPLICABLE STATUTE~~, in the manner prescribed in section ~~42(1)~~. **42.**

(2) ~~The~~ **A** notice ~~described in~~ **UNDER** subsection (1) ~~shall~~ **MUST** include all of the following:

(a) A reference to the statutory authority under which the action is proposed.

(b) The time and place of the public hearing and a statement of the manner in which data, views, questions, and arguments may be submitted by a person to the agency at other times.

(c) A statement of the terms or substance of the proposed rule, a description of the subjects and issues involved, and the

1 proposed effective date of the rule.

2 (3) The agency, or the office ~~of regulatory reform~~ acting on
3 behalf of an agency, shall transmit copies of the notice to each
4 person who requested the agency in writing or electronically for
5 advance notice of proposed action that may affect the person. If
6 requested, the notice ~~shall~~ **MUST** be by mail, in writing, or
7 electronically to the last address specified by the person.

8 (4) ~~The~~ **A** public hearing ~~shall~~ **UNDER THIS SECTION MUST** comply
9 with any applicable statute, but is not subject to the provisions
10 governing a contested case.

11 (5) The head of the promulgating agency or 1 or more persons
12 designated by the head of the agency who have knowledge of the
13 subject matter of the proposed rule shall be present at the public
14 hearing and shall participate in the discussion of the proposed
15 rule.

16 (6) **THIS SECTION DOES NOT APPLY TO A RULE TO WHICH SECTION 44**
17 **APPLIES, A RULE AS TO WHICH A PUBLIC HEARING IS NOT REQUIRED**
18 **BECAUSE THE PROMULGATION OF THE RULE IS BEING EXPEDITED UNDER**
19 **SECTION 44A, OR AN EMERGENCY RULE PROMULGATED UNDER SECTION 48.**

20 **SEC. 41B. (1) AFTER A PUBLIC HEARING UNDER SECTION 41 AND**
21 **BEFORE TRANSMITTAL TO THE COMMITTEE UNDER SECTION 45(2), AN AGENCY**
22 **MAY CHANGE A PROPOSED RULE TO CORRECT TECHNICAL, FORMAL, OR**
23 **GRAMMATICAL MISTAKES AS PROVIDED IN THIS SECTION.**

24 (2) **AN AGENCY SHALL NOTIFY THE OFFICE OF THE AGENCY'S INTENT**
25 **TO CHANGE A PROPOSED RULE UNDER THIS SECTION WITH THE DETAILS OF**
26 **AND REASONS FOR THE CHANGE. ON RECEIPT OF THE NOTICE FROM THE**
27 **AGENCY, THE OFFICE SHALL GIVE WRITTEN NOTICE OF THE AGENCY'S INTENT**

1 AND THE DETAILS AND REASONS FOR THE CHANGE TO THE COMMITTEE CHAIR
2 AND ALTERNATE CHAIR.

3 (3) WITHIN 14 DAYS AFTER RECEIPT OF A NOTICE FROM THE OFFICE
4 UNDER SUBSECTION (2), THE COMMITTEE CHAIR AND ALTERNATE CHAIR SHALL
5 ADVISE THE OFFICE WHETHER THE AGENCY MAY MAKE THE INTENDED CHANGE
6 TO THE PROPOSED RULE.

7 (4) IF THE COMMITTEE CHAIR AND ALTERNATE CHAIR ADVISE THE
8 OFFICE UNDER SUBSECTION (3) THAT THE AGENCY MAY MAKE THE INTENDED
9 CHANGE TO THE PROPOSED RULE, THE AGENCY MAY MAKE THE CHANGE. IF THE
10 COMMITTEE CHAIR AND ALTERNATE CHAIR ADVISE THE OFFICE UNDER
11 SUBSECTION (3) THAT THE AGENCY MAY NOT MAKE THE INTENDED CHANGE TO
12 THE PROPOSED RULE AND THE AGENCY WISHES TO MAKE THE INTENDED
13 CHANGE, THE AGENCY SHALL CONDUCT A NEW PUBLIC HEARING.

14 Sec. 42. (1) ~~Except as provided in section 44, at~~ AT a
15 minimum, an agency ~~, or the office of regulatory reform acting on~~
16 behalf of the agency ~~, shall publish the~~ A notice of public hearing
17 REQUIRED UNDER SECTION 41 as prescribed in any applicable statute
18 or, if none, ~~the agency, or the office of regulatory reform acting~~
19 ~~on behalf of the agency,~~ THERE IS NO METHOD OF PUBLICATION
20 PRESCRIBED IN ANY APPLICABLE STATUTE, shall publish the notice not
21 less than 10 days and not more than 60 days before the date of the
22 public hearing ~~in~~ AS FOLLOWS:

23 (A) FOR A NOTICE REQUIRED TO BE PUBLISHED BEFORE JANUARY 1,
24 2022, IN at least 3 newspapers of general circulation in different
25 parts of ~~the~~ THIS state, 1 of which shall be OF GENERAL CIRCULATION
26 in the Upper Peninsula.

27 (B) FOR A NOTICE REQUIRED TO BE PUBLISHED AFTER DECEMBER 31,

1 2021, ON THE INTERNET WEBSITE DEVELOPED BY THE OFFICE UNDER SECTION
2 10.

3 (2) Additional methods that may be employed by the agency ,—or
4 the office of ~~regulatory reform~~ acting on behalf of the agency TO
5 **PROVIDE NOTICE OF A PUBLIC HEARING**, depending ~~upon~~ ON the
6 circumstances, include publication in trade, industry,
7 governmental, or professional publications or posting on the
8 website of the agency or the office. ~~of regulatory reform.~~

9 (3) In addition to the requirements of subsection (1), **UNLESS**
10 **THE OFFICE PUBLISHES THE NOTICE OF PUBLIC HEARING ON BEHALF OF THE**
11 **AGENCY**, the agency shall electronically submit a copy of ~~the~~ A
12 notice of public hearing to the office of ~~regulatory reform~~ for
13 publication in the Michigan ~~register~~. If the **REGISTER. THE** office
14 ~~of regulatory reform~~ **SHALL PUBLISH THE NOTICE OF PUBLIC HEARING**
15 submitted **BY THE AGENCY OR** the notice of public hearing **PUBLISHED**
16 **BY THE OFFICE** on behalf of the agency ,—~~the office of regulatory~~
17 ~~reform shall publish the notice of public hearing in the Michigan~~
18 ~~register. An agency's~~ **REGISTER. THE** notice shall **MUST** be published
19 in the Michigan ~~register~~ **REGISTER** before the public hearing. ~~and~~
20 ~~the agency shall electronically file a copy of the notice of public~~
21 ~~hearing with the office of regulatory reform.~~

22 (4) ~~Within~~ **NOT LESS THAN** 7 days after receipt of the notice of
23 **BEFORE A** public hearing **UNDER SECTION 41**, the office of ~~regulatory~~
24 ~~reform shall do all of the following before the public hearing:~~

25 ——— (a) ~~Electronically~~ **ELECTRONICALLY** transmit a copy of the
26 notice of public hearing to the committee.

27 ——— (b) ~~Provide notice electronically through publicly accessible~~

1 ~~internet media.~~

2 ~~—— (4) After the office of regulatory reform electronically~~
 3 ~~transmits a copy of the notice of public hearing to the committee,~~
 4 ~~the~~ **THE** committee shall electronically transmit copies of the
 5 notice of public hearing, not later than the next business day
 6 after receipt of the notice from the office, ~~of regulatory reform,~~
 7 to each member of the committee and to the members of the standing
 8 committees of the senate and house of representatives that deal
 9 with the subject matter of the proposed rule.

10 (5) After receipt of ~~the~~ **A** notice of public hearing ~~filed~~
 11 **TRANSMITTED** under subsection ~~(3),~~ **(4)**, the committee may meet to
 12 consider the proposed rule, take testimony, and provide the agency
 13 with the committee's informal response to the rule.

14 Sec. 43. (1) ~~Except in the case of an emergency rule~~
 15 ~~promulgated in the manner described in section 48,~~ **SUBJECT TO**
 16 **SUBSECTION (3)**, a rule is not valid unless processed in compliance
 17 with section 42 and ~~unless~~ in substantial compliance with section
 18 41(2) ~~, (3), (4), and~~ **TO (5)**.

19 (2) A proceeding to contest a rule on the ground of
 20 noncompliance with the requirements of sections 41 and 42 ~~shall~~
 21 **MUST** be commenced within 2 years after the effective date of the
 22 rule.

23 (3) **THIS SECTION DOES NOT APPLY TO A RULE TO WHICH SECTION 44**
 24 **APPLIES, A RULE AS TO WHICH A PUBLIC HEARING IS NOT REQUIRED**
 25 **BECAUSE THE PROMULGATION OF THE RULE IS BEING EXPEDITED UNDER**
 26 **SECTION 44A, OR AN EMERGENCY RULE PROMULGATED UNDER SECTION 48.**

27 Sec. 44. (1) Sections 41, ~~and~~ 42, **AND 45(2) TO (4)** do not

1 apply to an amendment ~~or rescission~~ of a rule that is obsolete or
 2 superseded, or that is required to make obviously needed
 3 corrections to make the rule conform to an amended or new statute
 4 or to accomplish any other solely formal purpose, if a statement to
 5 that effect is included in the ~~legislative service bureau~~
 6 ~~certificate of approval of~~ **OFFICE'S WRITTEN OR ELECTRONIC RESPONSE**
 7 **TO** the rule **UNDER SECTION 39(4)**.

8 (2) Sections 41, ~~and 42~~, **AND 45(2) TO (4)** do not apply to a
 9 rule that is **REQUIRED TO BE** promulgated under the Michigan
 10 ~~occupational safety and health act, 1974 PA 154, MCL 408.1001 to~~
 11 ~~408.1094~~, **FEDERAL LAW AND** that is substantially similar to an
 12 existing federal ~~standard that has been adopted or promulgated~~
 13 ~~under the occupational safety and health act of 1970, Public Law~~
 14 ~~91-596, 84 Stat. 1590.~~ **REGULATION.** However, notice of the proposed
 15 rule shall ~~MUST~~ be published in the Michigan ~~register~~ **REGISTER** at
 16 least 35 days before the submission of the rule to the secretary of
 17 state ~~pursuant to~~ **UNDER** section 46(1). A reasonable period ~~, OF~~ not
 18 ~~to exceed~~ **MORE THAN** 21 days ~~, shall~~ **MUST** be provided for the
 19 submission of written or electronic comments and views ~~following~~
 20 **AFTER** publication in the Michigan ~~register~~ **REGISTER**.

21 (3) ~~For purposes of subsection (2),~~ **AS USED IN THIS SECTION,**
 22 "substantially similar" means identical, with the exception of
 23 style or format differences needed to conform to this or other
 24 state laws, as determined by the office ~~of regulatory reform~~
 25 ~~pursuant to~~ **UNDER** section ~~45(1).~~ **39(4)**.

26 **SEC. 44A. (1) THIS SECTION APPLIES TO THE FOLLOWING:**

27 **(A) SUBJECT TO SUBDIVISIONS (B) AND (C), THE PROCESSING OF A**

1 RULE, UNLESS THE RULE IS PROMULGATED UNDER AN ACT THAT IS COMPILED
2 UNDER 1 OF THE FOLLOWING CHAPTERS OF THE MICHIGAN COMPILED LAWS:

3 (i) CHAPTER 29.

4 (ii) CHAPTER 37.

5 (iii) CHAPTER 168.

6 (iv) CHAPTER 169.

7 (v) CHAPTER 205.

8 (vi) CHAPTER 206.

9 (vii) CHAPTER 207.

10 (viii) CHAPTER 208.

11 (ix) CHAPTER 209.

12 (x) CHAPTER 211.

13 (xi) CHAPTER 213.

14 (xii) CHAPTER 288.

15 (xiii) CHAPTER 289.

16 (xiv) CHAPTER 324.

17 (xv) CHAPTER 325.

18 (xvi) CHAPTER 336.

19 (xvii) CHAPTER 380.

20 (xviii) CHAPTER 388.

21 (xix) CHAPTER 393.

22 (xx) CHAPTER 409.

23 (xxi) CHAPTER 432.

24 (xxii) CHAPTER 460.

25 (xxiii) CHAPTER 483.

26 (B) THE RESCISSION OF ANY RULE.

27 (C) THE AMENDMENT OF ANY RULE TO INCORPORATE A LATER AMENDMENT

1 OR EDITION OF A CODE, STANDARD, OR REGULATION ALREADY ADOPTED BY
2 REFERENCE IN THE RULE, AS DESCRIBED IN SECTION 32(4).

3 (2) IF AN AGENCY DETERMINES THAT IT IS UNNECESSARY TO HOLD A
4 PUBLIC HEARING UNDER SECTION 41 AND PREPARE A REGULATORY IMPACT
5 STATEMENT UNDER SECTION 45 BEFORE A RULE TO WHICH THIS SECTION
6 APPLIES IS PROMULGATED, THE AGENCY MAY STATE IN THE REQUEST FOR
7 RULE-MAKING FOR THE RULE ITS RECOMMENDATION THAT THE PROMULGATION
8 OF THE RULE BE EXPEDITED UNDER THIS SECTION AND THE RATIONALE FOR
9 THE RECOMMENDATION. IF SUBSECTION (1)(C) APPLIES, THE AGENCY SHALL
10 INCLUDE IN THE REQUEST FOR RULE-MAKING AN EXPLANATION OF THE
11 MATERIAL DIFFERENCES BETWEEN THE CODE, STANDARD, OR REGULATION AS
12 ADOPTED AND THE LATER AMENDMENT OR EDITION.

13 (3) WITHIN 6 SESSION DAYS AFTER THE COMMITTEE CHAIR AND THE
14 ALTERNATE COMMITTEE CHAIR RECEIVE UNDER SECTION 39 A LISTING OF A
15 REQUEST FOR RULE-MAKING THE PROMULGATION OF WHICH THE OFFICE HAS
16 DETERMINED SHOULD BE EXPEDITED UNDER THIS SECTION, THE COMMITTEE
17 CHAIR OR THE ALTERNATE COMMITTEE CHAIR MAY OBJECT TO THE EXPEDITED
18 PROMULGATION BY PROVIDING TO THE OFFICE A WRITTEN OR ELECTRONIC
19 NOTICE OF THE OBJECTION. THE OFFICE SHALL IMMEDIATELY ISSUE A
20 WRITTEN OR ELECTRONIC NOTICE THAT THE COMMITTEE CHAIR OR ALTERNATE
21 COMMITTEE CHAIR HAS OBJECTED TO THE EXPEDITED PROMULGATION OF A
22 RULE.

23 (4) IF THE OFFICE ISSUES A NOTICE UNDER SECTION 39 THAT IT HAS
24 DETERMINED THAT THE PROMULGATION OF A RULE SHOULD NOT BE EXPEDITED
25 UNDER THIS SECTION OR ISSUES A NOTICE UNDER SECTION 39 THAT THE
26 COMMITTEE CHAIR OR ALTERNATE COMMITTEE CHAIR HAS OBJECTED TO THE
27 EXPEDITED PROMULGATION OF A RULE, THE AGENCY SHALL NOT PROCEED WITH

1 PROCESSING OF THE RULE WITHOUT HOLDING A PUBLIC HEARING UNDER
2 SECTION 41 AND PREPARING A REGULATORY IMPACT STATEMENT UNDER
3 SECTION 45.

4 (5) IF SUBSECTION (4) DOES NOT APPLY, AN AGENCY MAY PROCEED
5 WITH PROCESSING OF THE RULE WITHOUT HOLDING A PUBLIC HEARING UNDER
6 SECTION 41 AND PREPARING A REGULATORY IMPACT STATEMENT UNDER
7 SECTION 45. WHEN THE AGENCY HAS COMPLETED PROCESSING THE RULE, THE
8 AGENCY SHALL NOTIFY THE COMMITTEE.

9 Sec. 45. (1) Except as otherwise provided in this subsection,
10 an agency shall electronically submit a proposed rule to the
11 legislative service bureau for its formal certification. If
12 requested by the legislative service bureau, the office of
13 ~~regulatory reinvention~~ shall also transmit up to 4 paper copies of
14 the proposed rule. The legislative service bureau shall promptly
15 issue a certificate of approval indicating whether the proposed
16 rule is proper as to all matters of form, classification, and
17 arrangement. If the legislative service bureau fails to issue a
18 certificate of approval within 21 calendar days after receipt of
19 the submission for formal certification, the office of ~~regulatory~~
20 ~~reinvention~~ may issue a certificate of approval. If the legislative
21 service bureau returns the submission to the agency before the
22 expiration of the 21-calendar-day ~~time~~ period, the 21-calendar-day
23 ~~time~~ period is tolled until the rule is resubmitted by the agency.
24 The legislative service bureau ~~shall have~~ **HAS** the remainder of the
25 21-calendar-day ~~time~~ period or 6 calendar days, whichever is
26 longer, to consider the formal certification of the rule. The
27 office of ~~regulatory reinvention~~ may approve a proposed rule if it

1 considers the proposed rule to be legal and appropriate.

2 (2) Except as provided in subsection (6), after notice is
3 given as provided in this act and before the agency proposing the
4 rule has formally adopted the rule, the agency shall prepare an
5 agency report containing a synopsis of the comments contained in
6 the public hearing record, a copy of the request for rule-making,
7 and the regulatory impact statement required under subsection (3).

8 In the report, the agency shall describe any changes in the
9 proposed rules that were made by the agency after the public
10 hearing. The office ~~of regulatory reinvention~~ shall transmit by
11 notice of transmittal to the committee copies of the rule, the
12 agency reports containing the request for rule-making, a copy of
13 the regulatory impact statement, and certificates of approval from
14 the legislative service bureau and the office. ~~of regulatory~~
15 ~~reinvention.~~ The office ~~of regulatory reinvention~~ shall also
16 electronically submit to the committee a copy of the rule, any
17 agency reports required under this subsection, any regulatory
18 impact statements required under subsection (3), and any
19 certificates of approval required under subsection (1). The agency
20 shall electronically transmit to the committee the records
21 described in this subsection within 1 year after the date of the
22 last public hearing on the proposed rule unless the proposed rule
23 is a resubmission under section ~~45a(7)~~. **45A(9)**.

24 (3) Except as provided in subsection (6), an agency shall
25 prepare and include with a notice of transmittal under subsection
26 (2) the request for rule-making and the response from the office,
27 ~~of regulatory reinvention,~~ a small business impact statement

1 prepared under section ~~40(1),~~ **40**, and a regulatory impact
2 statement. The regulatory impact statement ~~shall~~ **MUST** contain all
3 of the following information:

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

7 (b) If requested by the office ~~of regulatory reinvention or~~
8 the committee, a comparison of the proposed rule to standards in
9 similarly situated states, based on geographic location,
10 topography, natural resources, commonalities, or economic
11 similarities.

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

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

17 (e) An estimate of the change in the frequency of the targeted
18 behavior expected from the rule.

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

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

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

1 (i) An estimate of the cost of rule imposition on the agency
2 promulgating the rule.

3 (j) An estimate of the actual statewide compliance costs of
4 the proposed rule on individuals.

5 (k) A demonstration that the proposed rule is necessary and
6 suitable to achieve its purpose in proportion to the burdens it
7 places on individuals.

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

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

12 (n) An identification of the nature of any report required and
13 the estimated cost of its preparation by small businesses required
14 to comply with the proposed rule.

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

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

21 (q) An estimate of the ability of small businesses to absorb
22 the costs estimated under subdivisions (n) to (p) without suffering
23 economic harm and without adversely affecting competition in the
24 marketplace.

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

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

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

7 (u) A statement describing how the agency has involved small
8 businesses in the development of the rule.

9 (v) An estimate of the primary and direct benefits of the
10 rule.

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

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

16 (y) An estimate of any secondary or indirect benefits of the
17 rule.

18 (z) An identification of the sources the agency relied upon in
19 compiling the regulatory impact statement, including the
20 methodology utilized in determining the existence and extent of the
21 impact of a proposed rule and a cost-benefit analysis of the
22 proposed rule.

23 (aa) A detailed recitation of the efforts of the agency to
24 comply with the mandate to reduce the disproportionate impact of
25 the rule upon small businesses as described in section 40(1)(a) to
26 (d).

27 (bb) Any other information required by the office. ef

1 ~~regulatory reinvention.~~

2 (4) The agency shall electronically transmit the regulatory
 3 impact statement ~~required~~ **PREPARED** under subsection (3) to the
 4 office ~~of regulatory reinvention~~ at least 28 days before the public
 5 hearing required under section 42. ~~Before the~~ **41. THE AGENCY SHALL**
 6 **NOT HOLD THE** public hearing ~~can be held,~~ **UNTIL AFTER** the **OFFICE**
 7 **REVIEWS AND APPROVES THE** regulatory impact statement. ~~must be~~
 8 ~~reviewed and approved by the office of regulatory reinvention.~~ The
 9 agency shall also electronically transmit a copy of the regulatory
 10 impact statement to the committee before the public hearing and ~~the~~
 11 ~~agency shall make copies available to the public at the public~~
 12 ~~hearing. The agency~~ **AT LEAST 10 DAYS BEFORE THE DATE OF THE PUBLIC**
 13 **HEARING, THE OFFICE** shall ~~publish~~ **POST** the regulatory impact
 14 statement on its website ~~at least 10 days before the date of the~~
 15 ~~public hearing~~ **AND THE AGENCY SHALL PLACE A LINK TO THE OFFICE'S**
 16 **POST ON THE AGENCY'S WEBSITE.**

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

1 and to the committee before the date of consideration of the
2 proposed rule by the committee.

3 (6) Subsections (2) ~~, (3), and TO~~ (4) do not apply to a rule
4 that is promulgated under section 33, 44, ~~or 48.~~ **A RULE TO WHICH**
5 **SECTION 44 APPLIES, A RULE AS TO WHICH A PUBLIC HEARING IS NOT**
6 **REQUIRED BECAUSE THE PROMULGATION OF THE RULE IS BEING EXPEDITED**
7 **UNDER SECTION 44A, OR AN EMERGENCY RULE PROMULGATED UNDER SECTION**
8 **48.**

9 Sec. 45a. (1) Except as otherwise provided in subsections ~~(7)~~
10 ~~to (9), after the committee has received the notice of transmittal~~
11 ~~specified in section 45(2), (9) TO (11),~~ the committee has ~~15~~ **THE**
12 **APPLICABLE NUMBER OF** session days **UNDER SUBSECTION (2)** in which to
13 consider the rule and to ~~object~~ **DO EITHER OF THE FOLLOWING, BY**
14 **CONCURRENT MAJORITY AS PROVIDED IN SECTION 35:**

15 (A) **OBJECT** to the rule by ~~filing~~ **APPROVING** a notice of
16 objection ~~approved by a concurrent majority of the committee~~
17 ~~members or the committee may, by concurrent majority, waive~~ **UNDER**
18 **SUBSECTION (3).**

19 (B) **WAIVE** the remaining session days. If the committee waives
20 the remaining session days, the clerk of the committee shall
21 promptly notify the office ~~of regulatory reinvention~~ of the waiver
22 by electronic transmission. ~~The committee may only~~

23 (2) **THE COMMITTEE HAS WHICHEVER OF THE FOLLOWING NUMBER OF**
24 **DAYS IS APPLICABLE TO CONSIDER A RULE AND TAKE 1 OF THE ACTIONS**
25 **ALLOWED UNDER SUBSECTION (1):**

26 (A) **UNLESS SUBDIVISION (B) APPLIES, 21 SESSION DAYS AFTER THE**
27 **COMMITTEE RECEIVES A NOTICE OF TRANSMITTAL UNDER SECTION 45(2)**

1 REGARDING THE RULE.

2 (B) IF THE RULE IS BEING EXPEDITED UNDER SECTION 44A, 9
3 SESSION DAYS AFTER THE COMMITTEE RECEIVES A NOTICE UNDER SECTION
4 44A(5) REGARDING THE RULE.

5 (3) TO approve a notice of objection ~~if~~ **UNDER SUBSECTION (1)**,
6 the committee **MUST** affirmatively ~~determines by a concurrent~~
7 ~~majority~~ **DETERMINE** that 1 or more of the following conditions
8 exist:

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

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

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

14 (d) The rule conflicts with state law.

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

17 (f) The rule is arbitrary or capricious.

18 (g) The rule is unduly burdensome to the public or to a
19 licensee licensed ~~by~~ **UNDER** the rule.

20 (4) ~~(2)~~ If the committee does not ~~file~~ **APPROVE** a notice of
21 objection ~~within the time period prescribed in~~ **UNDER** subsection ~~(1)~~
22 **(1) (A)** or if the committee waives the remaining session days ~~by~~
23 ~~concurrent majority~~, **UNDER SUBSECTION (1) (B)**, the office ~~of~~
24 ~~regulatory reinvention~~ may immediately file the rule, with the
25 certificate of approval required under section 45(1), with the
26 secretary of state. The rule takes effect immediately ~~upon its~~
27 ~~filing~~ **ON BEING FILED** with the secretary of state unless a later

1 date is indicated ~~within~~ **IN** the rule.

2 (5) ~~(3)~~ If the committee files **APPROVES** a notice of objection
 3 ~~within the time period prescribed in~~ **UNDER** subsection (1), the
 4 committee chair, the alternate chair, or any member of the
 5 committee shall ~~cause~~ **INTRODUCE** bills ~~to be introduced in both~~
 6 houses of the legislature, simultaneously **TO THE EXTENT**
 7 **PRACTICABLE**. Each house shall place the bill or bills directly on
 8 its calendar. The bills ~~shall~~ **MUST** contain 1 or more of the
 9 following:

10 (a) A rescission of a ~~THE~~ rule ~~upon~~ **ON** its effective date.

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

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

15 (6) ~~(4)~~ The notice of objection filed under subsection ~~(3)~~
 16 ~~stays the ability of the~~ **THE** office of regulatory reinvention to
 17 **SHALL NOT** file the rule with the secretary of state **A RULE AS TO**
 18 **WHICH THE COMMITTEE HAS APPROVED A NOTICE OF OBJECTION UNDER**
 19 **SUBSECTION (1)** until the earlier of the following:

20 (a) Fifteen session days after the notice of objection is
 21 ~~filed under subsection (3)~~ **APPROVED**.

22 (b) The date of the ~~A~~ rescission of the ~~issuance of the~~ notice
 23 of objection ~~, approved by a concurrent majority of the committee~~
 24 ~~members.~~ **AS PROVIDED IN THIS SUBDIVISION**. The committee may ~~meet to~~
 25 rescind the ~~issuance of the~~ **A** notice of objection **APPROVED** under
 26 ~~this subdivision.~~ **SUBSECTION (1)**. If the committee rescinds the
 27 ~~issuance of a~~ notice of objection under this subdivision, the clerk

1 of the committee shall promptly notify the office of ~~regulatory~~
 2 ~~reinvention~~ by electronic transmission of the ~~recession~~.

3 **RESCISSION.**

4 (7) ~~(5)~~ If ~~the~~ legislation introduced under subsection ~~(3)~~ **(5)**
 5 is defeated in either house and if the vote by which the
 6 legislation failed to pass is not reconsidered in compliance with
 7 the rules of that house, or if legislation introduced under
 8 subsection ~~(3)~~ **(5)** is not adopted by both houses within the time
 9 ~~period~~ specified in subsection ~~(4)~~, **(6)**, the office of ~~regulatory~~
 10 ~~reinvention~~ may file the rule with the secretary of state. The rule
 11 takes effect immediately ~~upon its filing~~ **ON BEING FILED** with the
 12 secretary of state unless a later date is specified ~~within~~ **IN** the
 13 rule.

14 (8) ~~(6)~~ If ~~the~~ legislation introduced under subsection ~~(3)~~ **(5)**
 15 is enacted by the legislature and presented to the governor within
 16 the ~~15-session-day period~~, **TIME SPECIFIED IN SUBSECTION (6)**, the
 17 rule does not take effect unless the legislation is vetoed by the
 18 governor as provided by law. If the governor vetoes the
 19 legislation, the office of ~~regulatory reinvention~~ may file the rule
 20 with the secretary of state immediately. The rule takes effect 7
 21 days after the date ~~of its filing~~ **IT IS FILED** with the secretary of
 22 state unless a later effective date is indicated ~~within~~ **IN** the
 23 rule.

24 (9) ~~(7)~~ An agency may withdraw a proposed rule under the
 25 following conditions:

26 (a) With permission of the committee chair and alternate
 27 chair, the agency may withdraw the rule and resubmit it. If

1 permission to withdraw is granted, the ~~15-session-day time 21-~~
 2 **SESSION-DAY OR 9-SESSION-DAY** period described in subsection ~~(1)~~
 3 **(2), AS APPLICABLE**, is tolled until the rule is resubmitted. ~~7~~
 4 ~~except that~~ **HOWEVER**, the committee ~~shall~~ **MUST** have at least 6
 5 session days after resubmission to consider the resubmitted rule,
 6 **AND IF NECESSARY, THE PERIOD UNDER SUBSECTION (2) IS EXTENDED TO**
 7 **PROVIDE THE 6 SESSION DAYS.**

8 (b) Without permission of the committee chair and alternate
 9 chair, the agency may withdraw the rule and resubmit it. If
 10 permission to withdraw is not granted, a new and untolled ~~15-~~
 11 ~~session-day time 21-~~**SESSION-DAY OR 9-SESSION-DAY** period described
 12 in subsection ~~(1)~~ **shall begin upon (2), AS APPLICABLE, BEGINS ON**
 13 resubmission of the rule to the committee for consideration.

14 **(10) ~~(8)~~ Subsections (1) to (5) do THIS SECTION DOES** not apply
 15 to rules adopted under ~~sections~~ **SECTION 33 , 44, and OR 48 OR RULES**
 16 **AS TO WHICH SECTIONS 41, 42, AND 45(2) TO (4) DO NOT APPLY AS**
 17 **PROVIDED IN SECTION 44.**

18 **(11) ~~(9)~~** An agency shall withdraw any rule pending before the
 19 committee at the final adjournment of a regular session held in an
 20 even-numbered year and resubmit ~~that~~ **THE** rule. A new and untolled
 21 ~~15-session-day time 21-~~**SESSION-DAY OR 9-SESSION-DAY** period
 22 described in subsection ~~(1)~~ **shall begin upon (2), AS APPLICABLE,**
 23 **BEGINS ON** resubmission of the rule to the committee for
 24 consideration.

25 ~~— (10) As used in this section only, "session day" means a day~~
 26 ~~in which both the house of representatives and the senate convene~~
 27 ~~in session and a quorum is recorded.~~

1 Sec. 61. (1) The filing of a rule under this act raises a
2 rebuttable presumption that the rule was adopted, filed with the
3 secretary of state, and made available for public inspection as
4 required by this act.

5 (2) The publication of a rule in the Michigan ~~register,~~
6 **REGISTER**, the Michigan ~~administrative code,~~ **ADMINISTRATIVE CODE**, or
7 in an annual supplement to the code raises a rebuttable presumption
8 that **ALL OF THE FOLLOWING ARE TRUE:**

9 (a) The rule was adopted, filed with the secretary of state,
10 and made available for public inspection as required by this act.

11 (b) The rule printed in the publication is a true and correct
12 copy of the promulgated rule.

13 (c) All requirements of this act relative to the rule have
14 been complied with.

15 (3) The courts shall take judicial notice of a rule ~~which~~ **THAT**
16 becomes effective under this act.

17 (4) **ON PUBLICATION OF A RULE IN THE MICHIGAN REGISTER OR**
18 **MICHIGAN ADMINISTRATIVE CODE, THE RULE IS ONLY SUBJECT TO CHALLENGE**
19 **ON 1 OR MORE OF THE FOLLOWING BASES:**

20 **(A) THE RULE IS NOT AUTHORIZED BY LAW.**

21 **(B) THE RULE IS NOT WITHIN THE SUBJECT MATTER OF THE ENABLING**
22 **STATUTE.**

23 **(C) THE RULE IS ARBITRARY OR CAPRICIOUS.**

24 **(D) THE RULE IS UNCONSTITUTIONAL OR OTHERWISE CONTRARY TO LAW.**

25 Sec. 64. Unless an exclusive procedure or remedy is provided
26 by a statute governing the agency, the validity or applicability of
27 a rule ~~, including the failure of an agency to accurately assess~~

1 ~~the impact of the rule on businesses, including small businesses,~~
2 ~~in its regulatory impact statement,~~ may be determined in an action
3 for declaratory judgment if the court finds that the rule or its
4 threatened application interferes with or impairs, or imminently
5 threatens to interfere with or impair, the legal rights or
6 privileges of the plaintiff. The action ~~shall~~**MUST** be filed in the
7 circuit court of the county where the plaintiff resides or has his
8 or her principal place of business in this state or in the circuit
9 court for Ingham ~~county.~~**COUNTY.** The agency ~~shall~~**MUST** be made a
10 party to the action. An action for declaratory judgment may not be
11 commenced under this section unless the plaintiff has first
12 requested the agency for a declaratory ruling and the agency has
13 denied the request or failed to act ~~upon~~**ON** it expeditiously. This
14 section ~~shall not be construed to~~**DOES NOT** prohibit the
15 determination of the validity or applicability of the rule in any
16 other action or proceeding in which its invalidity or
17 inapplicability is asserted.

18 Enacting section 1. Section 59 of the administrative
19 procedures act of 1969, 1969 PA 306, MCL 24.259, is repealed.

20 Enacting section 2. This amendatory act takes effect January
21 1, 2017.